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STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
BOARD MEETING

SAN FRANCISCO CIVIC CENTER COMPLEX AUDITORIUM
455 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA

TUESDAY, DECEMBER 11, 2001
9:40 A.M.

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Certified Shorthand Reporter
License Number 10602

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

A P P E A R A N C E S

BOARD MEMBERS PRESENT:

LINDA MOULTON-PATTERSON, Chair

DAN EATON

STEVEN R. JONES

JOSE MEDINA

MICHAEL PAPARIAN

DAVID A. ROBERTI

STAFF PRESENT:

MARK LEARY, Interim Executive Director

KATHRYN TOBIAS, Chief Counsel

ELLIOT BLACK, Legal Counsel

DEBORAH MCKEE, Board Assistant

YVONNE VILLA, Board Secretary

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 P R O C E E D I N G S

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: I'd like to
4 call our meeting to order.

5 I'd like to welcome everyone to the December
6 meeting at the Waste Management Board.

7 And would the secretary please call the roll.

8 BOARD SECRETARY VILLA: Eaton?

9 BOARD MEMBER EASTON: Here.

10 BOARD SECRETARY VILLA: Jones?

11 BOARD MEMBER JONES: Here.

12 BOARD SECRETARY VILLA: Medina?

13 BOARD MEMBER MEDINA: Here.

14 BOARD SECRETARY VILLA: Paparian?

15 BOARD MEMBER PAPARIAN: Here.

16 BOARD SECRETARY VILLA: Roberti?

17 BOARD MEMBER ROBERTI: Here.

18 BOARD SECRETARY VILLA: Moulton-Patterson?

19 BOARD CHAIR MOULTON-PATTERSON: Here.

20 At this time I'd like to request the audience
21 that you turn off all cell phones and pagers.

22 Also, if you wish to speak on an item, there
23 are speaker slips right over, this way -- out the
24 door -- and give them to Ms. Villa, who's over here
25 (indicating) and she will make sure that we are able to

1 know of your desire to speak on an item.

2 Also, we have time certain, certain Item
3 Number 15 that will be heard at 11:00 a.m. this morning
4 and Item 40 on inerts will be moved up to be heard today
5 after Item 13.

6 For Wednesday we will hear Item 39 first, 30
7 next, and then Item 28 time certain for
8 10:00 a.m. before hearing the rest of Wednesday's
9 agenda.

10 Also, we will be having a closed session
11 after, very short closed session after our lunch break
12 and we will probably be taking lunch break around 11:20,
13 11:30 and hope to be back at 1:00.

14 Ex partes.

15 Mr. Eaton.

16 BOARD MEMBER EATON: Just this morning
17 Marc Aprea on the C&D regs.

18 BOARD MEMBER JONES: Madam Chair, just a
19 couple this morning. Patrick Munoz and Judy Ware.
20 Marc Aprea on C&D. I met Council Member Munoz and with
21 Steve Johnson from down in our Salinas area.

22 And that's about it.

23 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

24 BOARD MEMBER MEDINA: Marc Aprea on the C&D
25 regs.

1 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian?

2 BOARD MEMBER PAPARIAN: Yeah, Marc Aprea on
3 the C&D regs and also Denise Delmatier on the C&D regs.

4 BOARD CHAIR MOULTON-PATTERSON: And I also had
5 Marc Aprea on the C&D regs.

6 I'd like at this time ask the audience to join
7 us in the flag salute. Today's the third month
8 anniversary of our national tragedy.

9 (Salute to the flag.)

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.

11 Before we begin our reports from our board
12 members, I'd like to call Jerrod Blumenfeld, Director of
13 the Department of Environment here in the beautiful City
14 of San Francisco.

15 MR. BLUMENFELD: Thank you Chair
16 Moulton-Patterson and the rest of the Board.

17 First of all, I'd like to welcome you on
18 behalf of Mayor Brown with the City and County of
19 San Francisco to this wonderful city. You haven't been
20 here I think for eight years having one of your monthly
21 board meetings. So thank you for choosing us.

22 And tonight we're having a reception for you
23 in the Northern or Southern -- I can't remember -- Light
24 Court but you'll see it, in City Hall from 6:00 to
25 9:00. So everyone here is most heartily welcome and

1 invited.

2 I just wanted to touch on three basic points.

3 One was environmental justice, which I think is a big
4 concern to communities here in San Francisco. The other
5 is electronics waste, which I think is going to become
6 an issue that we need to deal with quickly and with
7 resolve.

8 And first of all, I'd like to just kind of
9 talk about waste. My background is as an international
10 lawyer, and as you travel around the world you can kind
11 of look at different communities by what they throw
12 away. For instance, I was six months ago in Kenya where
13 they use Clorox bottles to collect water because they're
14 the best bottles that they can get. Nothing is thrown
15 away. If you look at civilizations through archeology
16 that's how we judge, and we examine past civilizations
17 by what they throw away.

18 We live in a phenomenally wasteful society.
19 The work that you at the California Integrated Waste
20 Management Board are doing is one, of the cutting edge,
21 and two, incredibly critical to what we have become as
22 a civilization.

23 So I think we cannot underestimate the
24 importance of the work we're doing here. Sometimes
25 we're bogged down in minutia policy, but the overall

1 strategic plan that you set out in the seven points,
2 which include issues such as environmental justice and
3 getting to zero waste I think is something that will
4 really stand the test of time.

5 So even as a city we just reported yesterday
6 that we're at 46-percent recycling, which is a
7 9.5-percent increase over last year. We don't think
8 50 percent is enough and I know that cities often are at
9 the vanguard of saying, you know, slow down.

10 We realize that it's difficult to get those
11 numbers, but we are fully behind you in wanting to get
12 to zero waste. So anything that we can do in terms of
13 policy or doing pilot work we are here and ready to
14 serve.

15 In terms of environmental justice, it's an
16 issue very close to my heart. If you go around the
17 world and look at where most waste facilities are sited,
18 even here in San Francisco, the Transfer Station is in
19 the southeast, the trucks that go around the city start
20 in the southeast. And there's a lot of issues that
21 communities have there.

22 So I think we really need to grapple with that
23 dynamic between the communities that are already facing
24 a large share in terms of environmental injustice, and
25 how we try and at the same time reduce the overall

1 societal burden and particularly focus on those
2 communities.

3 So I just wanted to touch on a few things that
4 we're doing. And it's actually derived a lot of the
5 models that your Board has set. So those are the ones
6 that I'll briefly touch on.

7 Within the Department of Environment, we have
8 integrated now solid waste management program.
9 So there's no longer a solid waste management program.
10 It's one Department of the Environment. That happened
11 about a month ago. And that was based on the Mayor's
12 and the Board's decision that really wanted to have
13 a holistic department that examined all the different
14 facets of the San Francisco environment.

15 So I think we're building a stronger
16 Department of Environment. We now have about 60 people
17 working with us on a whole range of issues. And as
18 part of that reorganization, we created in the
19 City of San Francisco an environmental justice program
20 area. So we'll have four people exclusively working on
21 environmental justice issues.

22 One of the things that we've done in the
23 Hunters Point Community, which is one of the most
24 judicially underserved communities in San Francisco,
25 is to develop green buildings that not only use recycled

1 waste in terms of building materials but integrate
2 recycling into project development and also of course
3 assist utilizing the energy efficient lighting.

4 So for us green building I think is something
5 that will really help get the numbers that we're looking
6 for in the future in terms of waste diversion and zero
7 waste, which I can't say enough how important that goal
8 will become.

9 We're very fortunate here in San Francisco to
10 have a waste collection company that I think is very,
11 very far ahead of the curve in looking at these issues.
12 When we talk to them, you know, their goal is to get to
13 zero waste, too. We're unraveling a fantastic tree
14 program at the moment where you collect organic waste
15 recycled, and then the waste can't be put in that; and
16 then eventually the goal is to only have two bins, to
17 not have a waste bin at all.

18 In terms of environmental justice issues, we
19 are working with that company NorCal to transfer some of
20 their vehicles, mainly the ones that go to the transfer
21 station in Altamont, which is the majority of miles, to
22 compressed natural gas and liquefied natural gas. So
23 when those vehicles are going through the communities
24 that are ill served, they are not getting diesel
25 omissions, which we all know have been linked to asthma

1 and other health problems.

2 In terms of electronic recycling, you know,
3 it's obviously one of the fastest growing waste streams
4 that we are encountering. It's hazardous, there's
5 issues of illegal dumping, and it's expensive to overt
6 from the landfill.

7 So all those things combined create a scenario
8 where we need to come up with some creative solutions.
9 Since 1994, the City of San Francisco's recycling
10 program has awarded grants up to 600,000, or totaling
11 \$600,000 to several organizations to help build
12 electronics reuse and recycling infrastructure.
13 And that's really paying off now in that we have an
14 infrastructure that can deal with recycling waste.

15 In 1999 the San Francisco Board of Supervisors
16 requested a report on the program to address the problem
17 of electronic waste, and in 2000 held a hearing and
18 passed a resolution that led to a one-year voluntary
19 computer take-back pilot program with 12 participating
20 stores and recyclers.

21 In 2001, the City worked with NorCal Waste
22 Systems companies to reuse and recycle electronics at
23 transfer stations and in bulky item collection.

24 Last year too a very progressive piece of
25 policy was enacted, the Computer and Electronics

1 Recycling Ordinance which has now been copied, you know,
2 and with our blessing and work by Richmond inventor
3 counties.

4 Our goal is, and I think we're fortunate in
5 having a political system that is very in tune with the
6 needs and demands of recycling, and also a populace here
7 in San Francisco that wants to do everything they can to
8 recycle. So we've been very fortunate in having those
9 factors that have come together. In terms of what we
10 have learned, that may be helpful to other local
11 jurisdictions that are here to help meet the electronics
12 challenge.

13 San Francisco ratepayers, not necessarily the
14 consumers of the products, pay about \$5 million a year
15 to handle unwanted electronics. Other localities face
16 these issues and are passing resolutions similar.
17 But I think if we can join together and use the Board
18 here as a forum by which to discuss some of these
19 issues, we'll be further along the track.

20 And that -- I think the Board has a critical
21 role to play here, because these products move across
22 boundaries. So while it is a local issue we need to
23 deal with it as your names suggest in an integrated
24 fashion.

25 So we hope the California Integrated Waste

1 Management Board will continue working with local
2 government producers and the Legislature to solve this
3 at the state and national level. And we hope you have
4 a very productive day today and a very enjoyable evening
5 at City Hall where we have a Christmas tree. And, in
6 fact, our Christmas tree recycling program is starting
7 today.

8 So good luck today and to all participants
9 here. And if we can answer any questions we're at
10 11 Grove Street, which is very close by, and on the
11 Web at sfenvironment.com.

12 Thank you.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you very
14 much Mr. Blumenfeld. And we really appreciate your
15 hospitality. And we also appreciate San Francisco's
16 efforts. You're doing a great job and it's really a
17 pleasure. And I hope we don't have to wait eight more
18 years to come back to the City.

19 Okay. We'll move to reports from Board
20 members.

21 Mr. Eaton.

22 BOARD MEMBER EATON: Yes, Madam Chair.

23 Is this on?

24 Just a couple of points. First, I'd like to
25 thank you for having a scheduling conflict last Thursday

1 and allowing me to drive up to Lake Tahoe where it had
2 just recently snowed and was wonderful and beautiful.

3 As part of our used oil program and putting on
4 the Reno oil recovery effort, as you will recall, we
5 have a contract for moneys both with fresh water as well
6 as coastal, with the Coastal Commission, as well as
7 El Dorado County and others. And it was a really good
8 beginning effort to sort of integrate not only the
9 coastal and fresh-water water habitat recovery efforts,
10 but also along with the storm drain stuff that had been
11 recently as a result of the legislation.

12 So I think it was a very, very good
13 conference. I think there was a lot of enthusiasm, real
14 great attendance -- given that the fact that there had
15 been a pretty good storm -- I think well over 100.
16 Our staff from the Used Oil Division was exceptional and
17 there were a lot of questions. So I think that was
18 a really good program.

19 I thank you again for having a scheduling
20 conflict. It was tough duty, that's for sure.

21 The other point that I'd like to make, it's
22 really not a report but really something that I want to
23 signal to my fellow board members and ask if any of them
24 at some point would like to be part of it as well,
25 I would welcome it. But also at a time when we are

1 celebrating -- celebrating is not really the appropriate
2 word, but actually recognizing the tragedy of some
3 90 days ago along with the holiday season. And that is
4 a program called No Waste For The Holidays. The State
5 of Washington has implemented it, and hopefully we'll
6 be having some meetings next month and some of my --
7 you Madam Chair and Mr. Paparian are going as well.
8 I'm going to try to set some meetings up.

9 But they had started a program for the
10 holidays, one to increase tourism for their attraction
11 and bring back a business as well as reducing waste, and
12 that through the holidays is giving gifts to cultural
13 events where there is no waste: Going to a movie, going
14 to a play, going to the Space Needle, all kinds of
15 things.

16 So I think if we can look next year in our
17 contract concepts for the upcoming holiday season we
18 here in California have plenty of those. I know in your
19 own area where you reside, Disneyland, we could do
20 something along that. It would be a great promotion.
21 And it kind of fits both helping businesses get back on
22 their feet after September 11th, as well as having
23 a holiday spirit and no waste which is part of our
24 mission. So I'm going to be doing some of that and
25 hopefully get some help with it.

1 Thank you.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you,
3 Mr. Eaton. That's a great idea and I appreciate you
4 bringing it up. And also thanks for covering for me.
5 I would have loved to have been there also.

6 BOARD MEMBER EATON: I lost.

7 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

8 BOARD MEMBER JONES: Thanks, Madam Chair.

9 Just a couple of events, you know, for those
10 of you that don't know all of San Francisco's garbage
11 that is recycled goes over to Alameda. So I ended up
12 over at the Alameda, at the celebration of the 25 years
13 of the Alameda Recycling Board. And now I think it's
14 called the Waste Management Authority. Quite an event.
15 That area has done an awful lot on the other side of
16 the bay.

17 I'm also working on a committee that's going
18 to have a one-day symposium or conference or whatever on
19 sustainability issues in Alameda County, that you may be
20 interested in going to. It's in February. It's on
21 February 28th. And I know Alameda is really trying to
22 get people in the Bay Area keyed into that. But there's
23 a lot of innovation there, or hopefully there will be
24 a lot of innovation about how we can end up with a more
25 sustainable state.

1 And they're obviously a little bit excited
2 that we use the word "zero waste" in our strategic plan,
3 and I tell them absolutely that that's what we're
4 achieving or trying to achieve. I look at it as a verb
5 instead of a noun in a lot of cases. I think that's
6 where we've got to go.

7 I was also at the opening of the Union, of the
8 Waste Management's Union City Glass Facility, which was
9 a unique -- they have taken over for the Gallo Company
10 to process glass, put it back into the stream. And
11 I think that the technology that's there, if anybody
12 ever has an opportunity, especially my fellow board
13 members, of seeing that facility, I think it will really
14 interest you. The optics and the optic sorting that's
15 going on that really cut cost in getting that material
16 to market.

17 And I do want to take advantage of the time
18 that I have and I'll do it really very briefly. I'm the
19 industry seat on this Board, which means that you have
20 to have a little bit of knowledge what goes on in the
21 industry and have a background out in the industry.
22 And it is particularly satisfying for me to come to
23 San Francisco for this board meeting, because I started
24 my career almost 30 years ago on a garbage truck here in
25 San Francisco. I'm staying at a hotel that was just at

1 the end of my route and, you know, and it kind of puts
2 everything in perspective for me, because it's been
3 a heck of a ride. But when you open up the Chronicle
4 and you see that, in fact, Golden Gate Disposal and
5 Sunset Scavengers has achieved 46-percent recycling.

6 This was one of the cities when I was
7 vice president of operations when AB 939 came around,
8 but I was the vice president of operations for NorCal at
9 that time.

10 This was a city that I thought would never
11 achieve 50 percent. There is no green waste stream in
12 this city. It does not exist. We don't have lawns, we
13 don't have trees. It just isn't there. And so I always
14 thought that this would be a city that would be
15 somewhere around 28 to 30 percent, 32 percent would have
16 to fall in a good-faith effort.

17 So I really have to take it off to the
18 City of San Francisco and Golden Gate and Sunset for the
19 innovative programs that they've done, especially the
20 organics waste, to do food waste; because that is a huge
21 part of the waste stream, you know. While people come
22 to San Francisco for the sights they also come for
23 the food. And anybody that didn't enjoy some
24 restaurants last night made a mistake, and I know
25 because I packed a lot of that stuff on my back,

1 believe me.

2 And so I congratulate the City of
3 San Francisco. I congratulate my old company for doing
4 something that I'm sure a lot of people in the State are
5 not very happy about. I will tell you right now there's
6 a lot of people in the State that are saying Why are
7 they doing this, why are they spending that kind of
8 money? Because if they can do it that means anybody can
9 do it; and that may not be a message that everybody
10 wanted to hear, but it's a message that I'm glad that
11 they have made.

12 So I thank you, Madam Chair, and I really am
13 enjoying my welcome home to my old city. Because I sure
14 as heck had a lot of fun, you know. In San Francisco
15 at 3:00 in the morning the sites on the streets of
16 downtown San Francisco can be pretty amusing. And if
17 you can't laugh every day, you're in the wrong business
18 when you're doing this.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you,
20 Mr. Jones.

21 Mr. Medina.

22 BOARD MEMBER MEDINA: Thank you, Madam Chair.

23 I just have one item to report. I was a guest
24 speaker at Oxnard College at an international trade and
25 economic development conference regarding the economic

1 opportunities for economic development in solid waste
2 management, along with the California-Mexico border.
3 And as board members know, we've had a lot of activity
4 between ourselves and our counterparts along the
5 border. And we have worked with the cities of Tijuana,
6 Tecate, and Mexicali projects, and clean up the Tijuana
7 River, the New River. And working with them at the site
8 of our new landfills, so there's definitely
9 a lot of economic opportunities along the border and
10 that was the purposes of this conference.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you,
12 Mr. Medina.

13 Mr. Paparian.

14 BOARD MEMBER PAPARIAN: Thank you,
15 Madam Chair.

16 I also as the environment seat want to
17 congratulate the people of San Francisco for the good
18 job that they've done in recycling. And, you know, when
19 you think of the green waste stream to think of
20 San Francisco as really at the cutting edge of
21 composting in California and in the country and what
22 they're doing with the food waste stream, it's amazing.
23 In some ways it's counterintuitive, as Mr. Jones
24 mentioned, to think that an urban area like this would
25 be at the cutting edge of composting but it really is.

1 And I think that San Francisco and the folks at
2 Golden Gate and Sunset deserve a lot of credit for
3 working together and coming up with a program that is
4 remarkable on what it's able to accomplish.

5 I wanted to mention a couple of other things.
6 Actually, I think Mr. Eaton's suggestion about looking
7 at the opportunities around the holiday season was an
8 excellent one. I know that the Department of
9 Conservation is putting out a green holidays guide.
10 I think we had a little bit of input into that. I know
11 that I think Frank Simpson is listed as one of the
12 contacts on that, and at least our logo was showing up
13 on some of the material that they're putting out
14 regarding recycling. But I think that's something that
15 we could, we could build on. In fact, I'll try to get
16 my fellow board members linked to the website that has
17 the green holiday guide on it.

18 Several of us: Chair Moulton-Patterson,
19 Mark Leary, a number of staff members had the
20 opportunity to attend the Governor's Environmental
21 Leadership Awards a few weeks ago. It was a remarkable
22 presentation and remarkable cross-section of California
23 organizations and businesses that deserved credit for
24 their good work. Seventeen entities received awards. I
25 had the opportunity to help score the sustainability

1 awards. One of the recipient of that award was Warner
2 Brothers Studios, which actually is -- I won't go into
3 it here, but they're doing quite a bit in terms of
4 everything from green building design to recycling and
5 reuse and resource reduction activities, to greening
6 their fleet vehicles. The woman who came to the event
7 actually managed to rent an electronic vehicle,
8 I believe, at the Sacramento airport coming to the
9 event, which is something we might want to emulate as we
10 travel around the State for our activities as well.

11 The last thing I wanted to mention.
12 I actually wanted to thank the Public Affairs Office,
13 in particular Frank Simpson's in the back of the room
14 there, but Chris Peck and Deb Orrill for really helping
15 out on the electronic waste item that we're going to
16 hear tomorrow. They're helping in making sure that the
17 word gets out about some of the findings in a study that
18 we're going to hear about, and making sure that it's up
19 on our website and easily accessible to anybody who
20 wants that information. I want to let Frank know and
21 the staff know that I really appreciate the extra effort
22 that's gone into that.

23 I know the Public Affairs Office has had some
24 staffing issues in having some vacancies and
25 difficulties in getting the work done. So I appreciate

1 that effort. And also the effort of Mark and Frank in
2 making sure that our website is starting to get updated
3 with some stuff. I know the strategic plan is now on
4 the front page of the public website. The What's New
5 section of the website is getting updated. And there's
6 some good stuff happening there. So thank you, guys.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you,
8 Mr. Paparian.

9 I'd like to call on Senator Roberti for
10 ex partes and report.

11 SENATOR ROBERTI: Thank you, Madam Chair.

12 First of all, due to the ex parte, I met with
13 Michelle Randall at the town hall meeting in Englewood
14 on December 7th, discussing composting regulations of
15 the South Coast Air Quality Management District and
16 CIWMB's reaction, and they discussed the Senate Grove
17 Composting Center and Rule 1133. I had written
18 correspondence from Seymore Equance on December 7th
19 regarding the tire product commercialization grant.
20 With Robert Purdue, on November 26th regarding closure
21 of underlying landfills receiving flows of waste. With
22 Marlene Demorey, written correspondence on November 27th
23 regarding emergency regulations regarding CRTs. With
24 Heidi Hall, written correspondence on November 9th,
25 regarding the strategic plan. With Mr. Mike Mohajer,

1 written correspondence on November 13th regarding
2 rubberized asphalt and concrete technology; and with
3 David Truacs, written correspondence on November 6th
4 regarding the Board's declaration of structural fill as
5 disposal instead of diversion.

6 And Madam Chair, I'd like to join the other
7 members in saying how exciting it always is to come to
8 San Francisco. It's just a wonderful city. And
9 although I'm not from San Francisco, I have been
10 appointed to this Board by the State Senator and
11 President Pro Tem who represents San Francisco.
12 And I heard Mr. Jones' remarks it's always fun to be
13 in San Francisco and at nighttime and watch the passerby
14 traffic.

15 Well, Mr. Jones, as you probably know, I'm
16 from roughly downtown Hollywood and it's always nice to
17 compare notes. (Laughter) So both places having their
18 own unique interests.

19 On November 19th, I visited with Los Angeles
20 Department of Public Works Task Force Meeting. They
21 covered a number of subjects and certainly the inner
22 issue was high on their list as was the composting
23 regulations.

24 I attended America Recycles Day with Brookside
25 Park in Pasadena, was sponsored by the City of Pasadena

1 who have a wonderful recycling program.

2 One of the more interesting visits I made
3 since our last meeting was Santa Monica City College,
4 which has the first vermin composting site in the
5 state. And they're going to be to zero waste in the
6 near future by composting with the little vermin all
7 their cafeteria waste. So it's really very interesting,
8 and I submit that it would be nice if every institution
9 with a cafeteria would do the same.

10 I met with Grace Chan of Los Angeles County
11 Sanitation District roughly on the very same rules as
12 Los Angeles Department of Public Works that we have been
13 sort of mulling over, as far as our interrelation with
14 other boards, specifically Air Quality.

15 One of the more interesting things I did as
16 well as we, we granted for a study to the City of
17 West Hollywood moneys for historical preservation in
18 conjunction with the sustainability. One problem that
19 we often face with sustainable buildings is that they
20 seem to have no soul. And the City of West Hollywood
21 is doing just a wonderful job in promoting
22 sustainability in the context of their existing, ancient
23 structures: not destroying old buildings, maintaining
24 historic sites, and at the same time having sustainable
25 energy-efficient, waste-efficient structures. They're

1 in the process of doing this. And I think the Board
2 made a wonderful step forward in helping them along and
3 I hope we continue to do so.

4 I visited the City of Monrovia where they have
5 a problem, as some of the other cities in their general
6 area do with is the inerts and the counting of inerts at
7 waste sites.

8 And finally, I attended at the notice of our
9 own staff, and I'm glad they noticed me because I
10 attended an environmental justice town hall meeting at
11 the First Church of God in Inglewood California where we
12 who were there were exposed to a wide range of concerns
13 in the area of environmental justice.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you,
15 Senator.

16 And I'd like to turn it over to Mark Leary for
17 his report.

18 EXECUTIVE DIRECTOR LEARY: Thank you,
19 Madam Chair. Good morning, Chair, and Members of the
20 Board.

21 A short report this morning.

22 Firstly, you may be aware that the
23 U.S. Environmental Protection Agency is holding
24 a public meeting here in San Francisco today at the
25 Sir Francis Drake Hotel to hear comments on their draft

1 white paper: Beyond RCRA: Prospects were waste of
2 material managements in the year 2020.

3 This paper outlines a new public policy
4 division of sustainable system for managing waste
5 materials in the United States. Staff and the Board's
6 policy office is gathering internal input, and we'll
7 prepare comments on their paper to be submitted to the
8 USEPA by the January 15th, 2002 deadline. You may have
9 noted Rubia Packard absence here today. She is
10 attending that meeting for us this morning, will be
11 reporting back to us later on on their discussion.

12 Back to Sacramento, a topping-out ceremony
13 for the Capitol area East End Project and formal
14 announcement of the Sustainable Building Task Force
15 Strategic Plan, developed in response to the Governor's
16 Executive Order, is scheduled for December 19th in
17 Sacramento. The East End project, as you know, is
18 a \$392 million, 1.5 million square-foot signature state
19 office building. The complex in Sacramento scheduled
20 for completion in 2002 and 2003. The topping-out
21 ceremony acknowledges a major milestone: completion of
22 the top floor.

23 The multi-agency green team was formed at the
24 direction of Secretary Adams, Ilene Adams of State and
25 Consumer Services Agency to focus on sustainable

1 building measures for this project. The green team
2 developed general requirements for improved energy
3 efficiency, environmentally preferred building
4 materials, recycling, indoor air quality, water
5 conservation, landscaping, and other resource
6 efficiency-related measures for this project; and later
7 formed sustainable building task force that prepared the
8 strategic plan.

9 Staff throughout Cal EPA has been involved in
10 this effort. However, our staff facilitates the
11 Sustainable Building Task Force and conducts the
12 sustainable building technical group meeting.

13 I'd like to acknowledge the role the staff of
14 Patty Wohl's group has played in making this effort such
15 a success. Certainly we learned a lot about green
16 buildings through our experience with the Cal EPA
17 structure. And I think our staff leadership in the
18 East End project is testament to that expertise.

19 As you know, the Board has been looking at
20 whether advanced technology such as gasification and
21 hydrolysis can be sited in the state to convert
22 post-recyclable residuals into energy-alternative fuels
23 and other products. Various project proponents have
24 raised a number of questions to staff about how such
25 technologies will or should be regulated. As a result,

1 staff has planned a workshop entitled Regulation Of
2 Conversion Technologies: How Should It Be Done on
3 January 8th from 8:30 to 12:30 at the Cal EPA building
4 in Sacramento. This workshop's for industry facility
5 operators, LEAs, local government, environmental
6 organizations, and other interested parties to provide
7 participants an opportunity to review, discuss, and make
8 suggestions about the regulatory oversight of conversion
9 technology facilities.

10 Staff will take feedback from the workshop and
11 prepare an agenda item for further discussion by the
12 Board. Staff has prepared a background paper for the
13 workshop and has posted it on the organics website.

14 Another brief item, staff's working hard on
15 plans for the Disneyland Recycled Products Trade Show.
16 In fact, we're looking for a little help from the Board
17 members to assist us in the area of sponsored
18 development: lining up some assistance to make this
19 show a real success. Staff is working closely with
20 the Walt Disney Company on this and we believe your
21 personal involvement would be helpful.

22 Jerry Hart and Chris Peck are coordinating
23 this effort on our end and I will, and will be
24 contacting your offices soon to provide more information
25 about the anticipated sponsorship needs for the trade

1 show and seek your counsel.

2 Finally, in closing my report I'd like to
3 bring you up to date on the impact of the General Fund
4 shortfall of the Board, as you have asked me to. While
5 the Board is fortunate not to be significantly impacted
6 by the General Fund situation, the hiring freeze that
7 accompanied these shortfalls is another issue. We have
8 currently more than 55 vacancies at the Board. And
9 while an 8- to 10-, 12-percent vacancy rate is not
10 extraordinary for the Board, and the Board is accustomed
11 to dealing with it, particularly with the help of our
12 excellent administrative staff, we have all kinds of
13 flexibility in the personnel system to fill behind
14 maternity leave with retired annuitants, to promote
15 people, to hire people, with the hiring freeze that
16 flexibility has been basically screeching to a halt.
17 As a result as we deal with staff cycles of life as they
18 prepare for retirement, as they prepare to bear children
19 and take some leave associated with that, we're a little
20 bit left in the lurch in terms of staff in the sense
21 that we cannot fill behind them in any way, shape, or
22 form.

23 I wanted to make you aware of that. Executive
24 staff is reviewing the resources across the Board's
25 programs. We're looking to possibly shift resources in

1 a minor way to make sure we're covered on all the
2 Board's high-priority efforts. And I'd like to
3 ultimately offer you the reassurance that the staff's
4 commitment to this Board's mission continues to not
5 waiver. And that if we need to work harder and longer
6 to get the job done, that's what we'll do.

7 And that concludes my report.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you,
9 Mr. Leary.

10 BOARD MEMBER EATON: Can I ask Mr. Leary
11 a question on the hiring issues?

12 EXECUTIVE DIRECTOR LEARY: Certainly.

13 BOARD MEMBER EATON: My understanding is that
14 there is some ability to bring people on, as long as
15 they are in the state service; is that correct?

16 EXECUTIVE DIRECTOR LEARY: There is some
17 ability to move, within our own department, resources
18 around. We cannot hire from outside the Board at this
19 point in time.

20 I should have also mentioned there, of course,
21 is an opportunity to seek exemption from the hiring
22 freeze and we are moving in that, on a couple of our
23 highest priority positions and may look to take
24 advantage of that flexibility more in the future.

25 BOARD MEMBER EATON: But, more importantly,

1 there is an exception, is there not, for protection of
2 the public health and safety essential services?

3 EXECUTIVE DIRECTOR LEARY: There is an
4 exception for security kind of positions. I don't --

5 BOARD MEMBER EATON: And public health and
6 safety?

7 EXECUTIVE DIRECTOR LEARY: And public health
8 and safety. Safety positions I think are exempted.
9 And maybe a little help from --

10 BOARD MEMBER EATON: The point I want to make
11 is that I would hope that --

12 EXECUTIVE DIRECTOR LEARY: We can make that
13 argument.

14 BOARD MEMBER EATON: -- as we go through with
15 the tire fund, one of the issues that for getting the
16 money was the fact that we would have more, I don't
17 know, investigators or people who are over, say, for
18 inspections to protect the public health and safety.
19 And I would hope that as part of the executive staff
20 that you would at least look into that and make the
21 argument that that is part of why we did receive the
22 money because it was related to that. And I believe in
23 reading the Governor's Executive Order it's those kinds
24 of things that would be, their office would be amenable
25 to, to move it forward.

1 So if we can look at that from that
2 perspective, I think we might be able to move forward
3 in some of those areas as well.

4 EXECUTIVE DIRECTOR LEARY: I appreciate
5 the comment. In fact, you allow me to appear very
6 responsive in the sense that our first, first two freeze
7 exemptions that have been forwarded out of the Board
8 were for the executive positions and for the tire
9 positions. And we made the argument in the tire
10 positions, both a combination of the security and
11 protection of public health argument that you suggested,
12 but also a large part of the tire program is putting
13 money back into California's economy and stimulating
14 economy.

15 So we're hopeful that both those arguments
16 will be well received by the powers that be in granting
17 our exemption.

18 But thanks for that comment.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you.

20 We're going to move on to our consent agenda.
21 I just want to mention to the audience and to the Board,
22 we do have to be out of this room by 5:00 because of
23 security reasons. And we will finish Items 1 through
24 21, so we're going to be working real hard.

25 Item 12 has been deleted and Item 7 has been

1 pulled; is that correct, Mr. Leary?

2 EXECUTIVE DIRECTOR LEARY: That's correct,
3 Madam Chair.

4 BOARD CHAIR MOULTON-PATTERSON: So Items 11,
5 16, 22, 24, 25, 26, 29, 30, 33, 35, and 37 have been
6 proposed for the consent calendar.

7 Mr. Eaton, did you have some questions that
8 might be taken care of now on these items?

9 BOARD MEMBER EATON: Yes, Madam Chair.

10 I'd like to request that Items 22, 26, and 30
11 be pulled from the consent calendar. But Items 22 and
12 30 I think can be handled through clarification
13 questions. So if it would meet with the process and
14 approval, if we could just -- if I could ask questions
15 on 22 and 30 we can then take them off and put them back
16 on and vote on them. They're very quick questions.
17 26 would require a longer discussion, so I'd like to
18 have that pulled.

19 BOARD CHAIR MOULTON-PATTERSON: Why don't we
20 go ahead with 22 and 30 right now, and see if your
21 questions can be answered. And 26 has been pulled.

22 BOARD MEMBER EATON: 22 deals with the Life
23 Span of Tires Contract. Is there anyone here that can
24 answer that?

25 On Page 22-2: The contractor is expected to

1 be as part of the contract to present findings before
2 the Board at a Board meeting, a workshop, in or at, at
3 a waste tire conference. The way I read that and the
4 way it's open-ended that to meet the contract they can
5 present those findings at a waste tire conference and
6 not before the Board. So I would like at least that
7 since when we hand out these contracts that they should
8 be handed to the Board for findings and if there are
9 additional findings. But I do not want them to meet
10 their obligation of the contract by just going to
11 a waste tire conference, which maybe one of the Board
12 members or their staffs would not be able to meet with,
13 so...

14 MS. GILDART: Certainly the intent was not to
15 prevent, but --

16 BOARD MEMBER EATON: I understand. But the
17 language could be read that way, and it's not part of
18 our Board but it could be the contractors. I think it's
19 an important enough issue that if we can make that as
20 part of the resolution that they would present those
21 findings before the Board, and then however they want to
22 present them to other facilities.

23 With that, I wouldn't have any problem putting
24 22 back on consent.

25 MS. GILDART: And we can incorporate

1 language.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you.

3 BOARD MEMBER EATON: Item 30 which deals with
4 green building.

5 I just -- following up on Senator Roberti's
6 questions, because I remember the West Hollywood grant.
7 In these contracts, is part of the preference going to
8 be for bricks and mortar kinds of projects?

9 MS. MCDONALD: Yes.

10 I'm Chris McDonald with the Waste Prevention
11 & Market Development Division.

12 Actually, we are going to have a preference in
13 our RFP, excuse me, that has preference for
14 construction, bricks and mortar projects.

15 BOARD MEMBER EATON: And one other quick
16 question, with regard to who might be eligible, that
17 some of the smaller -- it says local governments, but
18 that's much more expansive and inclusive, for instance,
19 than some of the other types of districts which may have
20 reserves.

21 It doesn't have to be a city or county, it
22 could be another entity as well?

23 MS. MCDONALD: Right. The word -- we checked
24 with the legal office and they -- how we're
25 incorporating local governments is in the broader scope

1 which would include the Indian tribes and like park
2 districts and special districts in that.

3 BOARD MEMBER EATON: Thank you.

4 Madam Chair, with those questions I have no
5 problem with putting 22 and 30 back on. If you can just
6 pull 26 off, then I would make a motion no other items
7 need to be pulled from the consent calendar.

8 BOARD MEMBER JONES: Second.

9 BOARD CHAIR MOULTON-PATTERSON: I didn't
10 hear. Did you want to delete something?

11 SENATOR ROBERTI: No, I would just -- I don't
12 know if this is the appropriate time but I would like to
13 signal a point. And that is that one aspect of waste
14 reduction should be that we try to preserve what is
15 there already. So I don't know if as part of this grant
16 this would be appropriate, but in our scoring I would
17 hope some points would be given to protecting what is
18 already there, rather than having to go to the
19 dumpster.

20 As far as sustainability is concerned, I think
21 that should be an aspect. They obviously can't give the
22 total consideration sustainability, but it should be
23 part of it. So I don't know if it's appropriate, but
24 maybe at the meeting when it is discussed what the
25 scoring factors are, that something along those lines

1 can be presented to the Board, so we can make a judgment
2 call.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you,
4 Senator. So we'll do that.

5 So we have a motion by Mr. Eaton, seconded by
6 Mr. Jones, to approve Items 11, 16, 22, 24, 25, 29, 30,
7 33, 35 and 37.

8 Please call the roll.

9 BOARD SECRETARY VILLA: Eaton?

10 BOARD MEMBER EATON: Aye.

11 BOARD SECRETARY VILLA: Jones?

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY VILLA: Medina?

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY VILLA: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY VILLA: Roberti?

18 SENATOR ROBERTI: Aye.

19 BOARD SECRETARY VILLA: Moulton-Patterson?

20 BOARD CHAIR MOULTON-PATTERSON: Aye.

21 Okay. That brings us to our continued
22 business Item No. 1. And we have many, many speakers on
23 this.

24 So I'll turn it over to you at this time,
25 Ms. Nauman.

1 MS. NAUMAN: Thank you.

2 Good morning, Madam Chair, and Board members.
3 Julie Nauman from the Permitting & Enforcement Division.

4 This item Item No. 1 has been continued from
5 your November Board meeting. And it is a consideration
6 of approval to formerly notice proposed regulations for
7 construction demolition debris and inert waste transfer
8 and processing facilities and operations.

9 You may recall we did have this item before
10 you in November at which time you asked us to continue
11 to work with the stakeholders on a number of issues,
12 including issues such as the threshold and the
13 applicability of various operations to the proposed
14 regulations.

15 We have been working diligently with them on
16 that. There is a new draft set of regulations that was
17 released late last week, I believe it was Thursday right
18 after the Board briefing on Wednesday.

19 Staff is prepared this morning to review with
20 you their efforts to work with the stakeholders in
21 individual and collective meetings and to review with
22 you the changes that are in the current set of
23 regulations. So at this time I'll turn it over to
24 Allison Reynolds.

25 MS. REYNOLDS: Good morning, Madam Chair,

1 Board members. My name is Allison Reynolds.

2 This purpose of this item is to bring forward
3 for consideration by the Board, approval to notice
4 proposed regulations for construction and demolition and
5 inert debris transfer/processing operations and
6 facilities.

7 As directed by the Board at the November board
8 meeting, staff met with stakeholders to address key
9 issues that could be resolved. This resulted in
10 the latest draft version of the regulations dated
11 December 5th, 2001. This latest draft version was
12 e-mailed to the interested parties distribution list on
13 Tuesday of last week. The revised draft regulations
14 were also posted on the Board's website late Friday to
15 assist stakeholders in their review of the draft
16 regulations.

17 Staff has also scheduled a Southern California
18 workshop on December 13, this Thursday, to discuss more
19 fully these changes to the draft regulation and to
20 gather input on Phase 2 and C&D and inert disposal
21 regulations.

22 I'll now cover some key issues that staff
23 addressed since last month's Board meeting.

24 Staff changed the amount of incoming tonnage
25 allowed for CDI -- that's construction, demolition, and

1 inert debris -- operations to under 300 tons per day,
2 and for over 300 tons per day for CDI facilities.

3 Staff changed the amount of incoming allowed
4 for inert debris operations to under 1500 tons per day,
5 and for over 1500 tons per day for inert debris
6 facilities.

7 Staff amended language to allow commingling of
8 lumber and steel in a single container at recycling
9 centers.

10 Staff amended language so that storage limits
11 do not apply to Type A inert debris recycling centers to
12 take place at a solid waste disposal facility or at a
13 material production facility that primarily handles raw
14 materials to produce a new product.

15 Storage limits can now be extended where
16 a conditional use permit specifies exact time limits.

17 Storage limits may now be extended where
18 financial assurance requirements are met for recycling
19 centers and operations and facilities.

20 Staff added language to aid the EA in
21 determining if storage limits are exceeded.

22 Staff changed storage limits for inert
23 materials to 6 months for unprocessed material and
24 18 months for processed materials.

25 Staff added a description of a storage plan to

1 aid the EA in making a storage limit extension.

2 Staff added a section for Final Site Cleanup.

3 And finally, staff added a Construction and
4 Demolition and Inert Debris Operation Plan requirement
5 for CDI processing operations or inert debris processing
6 operations.

7 Staff recommend the Board approve staff to
8 formally notice the proposed Construction and Demolition
9 and Inert Debris transfer/processing operations and
10 facilities regulations for 45 days, beginning the formal
11 comment period.

12 This concludes my presentation.

13 Are there any questions of staff regarding
14 material I have covered?

15 BOARD CHAIR MOULTON-PATTERSON: Any questions
16 at this time?

17 BOARD MEMBER PAPARIAN: Thank you,
18 Madam Chair.

19 I am not sure I understood the public
20 workshops. Once these things are noticed, what's the
21 intention for having public workshops and where are they
22 going to be?

23 MR. DE BIE: First of all, the chance --
24 oh, sorry, Mark deBie with Permitting and Inspection
25 Branch.

1 The regulations won't actually be noticed
2 after today. It will take some time to go through and
3 get physical impact and all the paperwork together.
4 So this Thursday they still won't be actually formally
5 noticed that the 45-day comment period won't begin.

6 We have, as you know, we're doing Phase 1
7 and Phase 2, and we already have a plan to do workshops
8 starting Phase 2 this month. And so we're just added in
9 a portion to that workshop to allow stakeholders to
10 review and discuss with staff Phase 1 regs, so they can
11 be aided in understanding the regulations and eventually
12 providing comment to the Board relative to the Phase 1
13 regs.

14 So it's not a workshop in the sense that it's
15 set up to, to gather input to modify the regs, it's to
16 educate the stakeholders about the content of the regs,
17 to aid them in developing written comments during the
18 formal comment period.

19 BOARD MEMBER PAPARIAN: So the intention then
20 is to have the primary forum of input being written
21 comments? We're not having a regular public workshop
22 on, specifically on the Phase 1 regs?

23 MR. DE BIE: You know, people can ask
24 questions of clarification and that sort of thing, but
25 if they want to be involved in changing the regulations

1 after today, if the Board gets approval, it will need to
2 be written during the formal comment period. And again,
3 that begins when the actual formal notice begins and
4 that may be a month away.

5 BOARD MEMBER PAPARIAN: Thank you.

6 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

7 BOARD MEMBER JONES: Thanks, Madam Chair.

8 So I mean, there's still huge disparity
9 between, there is in my mind anyway. I mean, I can't, I
10 haven't seen anything that's convincing me why
11 this should go to 300 tons of material. Even at the
12 10-percent rate that's 30 tons of garbage that can be
13 paid at the 10-percent rate, 10 percent of 300 is
14 30 tons.

15 1500 tons of inerts is 150 tons. That's about
16 16 garbage trucks, basically. So I warn or I tried to
17 advise at the meeting when we talked about this that
18 some of the language I was hearing reminded me of when
19 we spent two years going through transfer station regs;
20 and now I am seeing this as a vehicle to -- and I am
21 hearing some of the arguments that these folks are just
22 recyclers and why should they be in the regulatory
23 scheme?

24 This is the same argument we heard at the
25 transfer station regs, and I had no problem when we were

1 at 100 tons, because that's still 10 truckloads
2 a day. But when we go to 300 tons with a notification,
3 just a letter to an LEA, that's very bothersome.
4 And now if you're telling me that the workshop that's
5 scheduled for the day after our board meeting in
6 Southern California isn't really to even address these
7 issues, and that the only, the only way that we'll
8 change these regs is through written notification, then
9 I've got a real problem with even letting these regs out
10 the door until we get these things nailed down.

11 This is too critical to -- I mean, we spent
12 three, I know at least two years working on transfer
13 station regs. Somebody told me it was four. But I know
14 it was two, because I worked on them. These are the
15 same arguments that people try to get that did not want
16 to be part of the regulatory structure. And I don't
17 want to -- I mean, that's something that stays in my
18 mind.

19 The Board members, because I'm worried that if
20 we allow this 300 or 1500 tons we've allowed those folks
21 to operate very similar to what Mobile Debris Box did in
22 San Francisco that they always told me when I complained
23 about it not to worry about it; then they came forward
24 and wanted 315 grand to clean it up, because it was not
25 a recycling facility.

1 So I worry about that. And so I am going to
2 have a real hard time being convinced that these can go
3 out, especially when it's only through whatever written
4 responses the staff wants to take would be the changes
5 as opposed to the give and take that we normally get.

6 And I know that's by law. I am not saying
7 that that's something arbitrary. It's that process that
8 we get there that is always a problem, especially for me
9 that, you know, if somebody chooses not to take a
10 comment. And we had evidence of it at our last meeting
11 that people that were on the other side of this issue
12 felt staff wasn't listening to them. Staff was actually
13 listening to what the Board had said when we started
14 this process.

15 So now I see it reverted the other way, and
16 I am not sure that I am prepared to give that up.

17 MR. DE BIE: Mr. Jones, if I could respond to
18 your concerns.

19 A little explanation of why staff moved from
20 the 100, which is the number that's in the transfer
21 station regs, and that's where we started with, we felt
22 we should start at a known quantity. During the time
23 between the Board meeting and today we did receive input
24 from various sources, many of those voices indicated
25 that the 100 tons was too low for operations because,

1 you know, the density of the material coming in that
2 there would be very few operations that would actually
3 qualify. So it would be having a tier that no one would
4 be in because the number's low.

5 BOARD MEMBER JONES: To qualify for the
6 exemption, Mr. DeBie?

7 MR. DE BIE: Qualify for notification.

8 BOARD MEMBER JONES: Right. So if they went
9 over that they would still be able to do business,
10 they'd just be in a permanent tier?

11 MR. DE BIE: They would be in a full solid
12 waste facility.

13 BOARD MEMBER JONES: Okay.

14 MR. DE BIE: So staff was grappling with what
15 number might reflect more of what operations are, but
16 not too high where we would lead into concerns relative
17 to, you know, a lot of material on site, potentially
18 a lot of contamination creating issues.

19 So we did some calculations based on the
20 comparison of MSW densities and C&D densities and we
21 came up with some numbers. We actually chose the more
22 conservative number, and that's how we came up with the
23 number.

24 Staff is willing to look at a lower number if
25 the Board is concerned. And these regs can go out with

1 a different number if the Board directs staff to change
2 that. So out the door from your approval today it can
3 be a different number. And perhaps you want to listen
4 to public testimony and have discussion and see if we
5 can agree on what the number should be.

6 I might also indicate that during the transfer
7 station regulation service, a lot of debate about how to
8 deal with the situation you described in the two-part
9 test was developed, in addition to the tonnage. We now
10 have included a third part, the putrescible part.
11 So that insures that any of the garbage of or non-C&D
12 recyclable material will not be putrescible, it will be
13 1 percent or less.

14 So there's less concern there too. So we've a
15 lot of emphasis on source separation to make sure the
16 materials coming into these facilities is clean, a lot
17 of emphasis on making sure that the waste coming in with
18 the material is, that's not putrescible.

19 But again, the 300 is a number that we were
20 putting forward and it's what we felt was a compromise
21 between the different stakeholders that we were
22 hearing. And basically, as you characterize, one camp
23 is the recyclers, that want to have a higher number and
24 avoid what they felt was the onerous level of a full
25 permit.

1 And then the other side are many elements for
2 operating transfer stations saying we're doing very
3 similar operations under a full permit, so, you know,
4 of similar facilities should maybe have the same rules.

5 So again, staff is open to input from the
6 Board on what the appropriate number should be.

7 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones and
8 then Mr. Medina.

9 BOARD MEMBER JONES: Just to make it rel- --
10 just to put into some kind of perspective. When we
11 started the transfer station regs, if it was 15 yards of
12 residual waste at a facility, 15 yards, one 15-yard
13 debris box, that was the amount of residual waste that
14 was allowed. So we went from 15 yards, which depending
15 upon what the material is going to weigh, somewhere
16 between 2-and-a-half tons and 5 tons to 100 tons to try
17 to take care of that.

18 So the 100 tons was the magic number, but it
19 was a magic number that came from 15 yards, 2 tons.
20 So to be wed to the 300, you know, is an issue for me,
21 so...

22 But I appreciate what you said.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you,
24 Mr. Jones.

25 Mr. Medina.

1 BOARD MEMBER MEDINA: Thank you, Madam Chair.

2 I appreciate the good staff work that has been
3 done up to date. However, due to the intricacies of
4 these issues and the concerns expressed by our Board
5 members and some of our stakeholders it's my intention
6 to continue this matter for another month.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you.

8 Okay. We will go ahead and hear public
9 testimony. I ask that you be very brief, because we
10 have quite a few speakers, and I think some of it might
11 be repetitive. So if you will please try and be brief
12 we would appreciate it.

13 We'll start with Karen Coca, City of L.A.,
14 followed by Patrick Munoz.

15 MS. COCA: Good morning, Madam Chair, Board
16 members.

17 Very briefly I just want to thank the Board
18 for their assistance on the proposed Rule 1133, which
19 has been invaluable. And to thank the Board Member
20 Roberti for visiting the L.A. County Task Force to
21 assist us and also to listen to our open comments that
22 generally come from the task force in person. It was
23 very much appreciated.

24 On this matter I really appreciate the
25 opportunity to work with staff. They've made a lot of

1 changes and additions to these regs that make them a lot
2 less onerous for businesses. But there are still a
3 couple of issues that I'd like to bring up.

4 We did a survey of just our mixed C&D
5 processors. We didn't have a chance to do the single
6 stream that only take concrete, only take asphalt, those
7 sort of things. There's 32 facilities that we have
8 listed in the City of L.A. Under the rule, the
9 regulations as written zero would be considered
10 recycling centers, although several of them only take
11 concrete and asphalt type, what you call Type A inert
12 debris and nothing else.

13 The reason is is because all of them grind on
14 site to render the particles smaller and then they
15 either sell it off the site or they take it somewhere
16 else. And these regulations are not allowed to grind.
17 So those it would not be considered recycling centers,
18 even though they only take Type A inert debris.

19 The storage limitations. With the addition of
20 the financial mechanism and some flexibility by the LEA,
21 based on the environmental issues, I think that we're
22 okay with that.

23 Several of the mixed C&D processors whose
24 primary business is concrete and asphalt, as I said,
25 said that they would stop taking the CDI debris if it

1 booted them up into a higher level tier. That was just
2 their own, their own take on it. They would only take
3 the clean inert materials and not the mixed box of
4 debris from a construction site if it caused them to
5 move into a different permitting tier. They,
6 in general, feel that the solid waste facilities permit,
7 the full permit is quite onerous. And in talking to our
8 LEA, he felt that the notification tier for an inert
9 processing facility is sufficient for them to go out and
10 inspect. There are requirements that they have to fall
11 under, performance standards for the inert Type A
12 processing facilities.

13 So the two, the two things that I'd like to
14 ask is, one, that you are allowed to chip and grind at a
15 recycling center, and the other that the clean inert
16 facilities that literally the majority of the facilities
17 in the City are over 1500 tons a day, just by the nature
18 and the weight of the material. So I would ask that
19 inert processing facilities be moved to the notification
20 tier, based on the residual and putrescible test that
21 you have. And that the notification tier be allowed to
22 stand for those. But I understand the issue with the
23 mixed C&D debris.

24 And that's it. Thank you very much.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

1 Patrick Munoz followed by Jim Hemminger.

2 MR. MUNOZ: Morning.

3 I am here on behalf of Madison Materials which
4 is a C&D recycler. We're not sure if we're a center,
5 a facility, or an operation yet. And our concerns are
6 really based on that very issue. We've spent
7 unbelievable amounts of money, gone through a very
8 detailed process with the City of Santa Ana, we've been
9 reviewed by the fire department, we've been reviewed by
10 South Coast Air Quality, we've been reviewed by all of
11 the interested parties. We've been through a CEQA
12 process.

13 We're holding ourselves out as what I would
14 call one of the good operators and we understand you
15 have a concern about those businesses that might not be
16 good operators. We feel as though the changes that have
17 occurred over the last week or two are really moving in
18 a positive direction in terms of addressing some of our
19 needs, although it's clear that some of your needs may
20 not be completely addressed. So I'm encouraged to hear
21 the comments so far today that I have heard along the
22 lines of maybe continuing this item.

23 My personal feeling is that there is sort of
24 an arbitrary timetable that's really driving this issue
25 and forcing your staff to have to come up with, with

1 answers before they necessarily come up with a solution,
2 though. And from my perspective and my client's
3 perspective, we would very much like to work with your
4 staff to make sure that our concerns are addressed, but
5 at the same time that your concerns are addressed. And
6 there's a lot of ways I think that mutual interest can
7 be achieved.

8 It concerns me to think that maybe this is
9 just going to be continued just for a month. You know,
10 in a perfect world I think it should be continued until
11 staff feels as though they've had the kind of give and
12 take that Mr. Jones described where the issue got really
13 discussed. And I recognize that doesn't mean that we'll
14 keep doing this until we get what we want. I mean, we
15 may not get what we want eventually, but at least if we
16 can work together to try and achieve mutually acceptable
17 solutions then we're all better off.

18 There are a couple of very specific points
19 I'd like to make, in the event that the matter is not
20 continued.

21 And one of the big issues that we're very
22 worried about is sort of an implementation schedule of
23 some sort. We'll be operating with all the approvals
24 that we feel as though we currently need before these
25 regulations are implemented. And in my comments and

1 discussions with the staff I have previously asked them
2 to have maybe a minimal of, say, 180-day window -- and
3 I pulled that out of the air -- but some sort of a
4 window that at a minimum would apply before operations
5 like ours would have to come into compliance.

6 And, you know, from our perspective, since
7 we've been through an extensive approval process
8 already, we've suggested some language to the effect
9 that if you've been through a discretionary land use
10 decision from a local agency that included a CEQA
11 process that you might have as much as, say, a two year
12 window before you have to get a full facility permit,
13 unless the EA found that there was some pressing or
14 urgent health safety and welfare concern that in which
15 case we would certainly understand if the State needed,
16 they felt they needed to intercede.

17 One of the, I think, underlying issues to the
18 whole discussion is the fact that facilities like,
19 at least the facility that we're building, are different
20 than MERFs. The material coming to these sites is
21 coming from a construction site and that waste stream is
22 very, very different than the waste stream that you have
23 when a trash truck goes up and down the street and picks
24 up household garbage. And we feel that it's very
25 important that the permitting regulations should be

1 tailored to address the differences in the waste
2 stream.

3 And we're not saying don't regulate us, I
4 mean, I am very sensitive to the concern that I've heard
5 that, you know, everybody will say we're just recyclers,
6 don't regulate us. We're okay with being regulated, but
7 we think we need to be regulated in a manner that is
8 appropriate to what it is we're doing.

9 There was a workshop meeting during which
10 there was a discussion about who thinks the regulations,
11 the permitting regulations should be the exact same
12 regulations that exist for MERFs, and who thinks there
13 should be a whole other section or chapter, or whatever
14 you want to call it, drafted just for the C&D business.

15 And it was interesting to observe that there
16 was sort of a split in the room. The persons in the
17 room that either own or represent people who own MERFs
18 all felt like we should use the regulations that applied
19 to MERFs, and everybody else felt like we should have
20 completely separate regulations.

21 And there's some obvious business reasons for
22 that. The MERF operators are obviously concerned that
23 if they are being regulated, that everybody else that's
24 similar should be regulated. But that belies the
25 problem. We're not similar; it's a completely different

1 waste stream.

2 And I think it makes sense to have specific
3 permitting regulations, because then you can have more
4 flexibility. You can do things, for instance, in this
5 middle tier that we've all been talking about to say
6 Let's pump it up -- and this will be Mr. Jones'
7 heartburn -- but let's pump it up to 500 times. But at
8 the same time to address his concerns have the financial
9 insurance requirements, and maybe have the requirement
10 of the local land use approval.

11 And I just throw that out as a hypothetical
12 possibility, but there are ways if we have flexibility,
13 because we're not dealing just with this industry in the
14 permitting process that we could achieve our concerns
15 at the same time achieve your concerns.

16 And then one last item that I think is really
17 important to consider is this: The definitions you come
18 up with have far-reaching impacts, not just for these
19 regulations. I represent a number of cities that have
20 drafted, I don't even know anymore, maybe eight solid
21 waste franchise agreements on behalf of cities. There
22 are -- there is a tendency that the lawyers who draft
23 those agreements on behalf of cities don't necessarily
24 have the expertise in this area that I have.
25 I certainly didn't have when I started. And one thing

1 that tends to happen is when you write those agreements
2 you just defer to existing definitions so that we don't
3 have to reinvent the wheel.

4 There are many, many cities out there that
5 allow, as an exemption to their otherwise exclusive
6 regulations or exclusive franchise ordinances, that
7 allow waste from a construction site to be picked up by
8 nonfranchised haulers or haulers operating under
9 specific permits or operating under nonexclusive
10 franchises. Not in all cases but in many, many cases
11 those haulers are allowed to pick up any waste from
12 the construction site, not C&D waste as it's know being
13 defined.

14 I think it's important to recognize that
15 anything coming from a construction site is C&D waste.
16 And in terms of the definition, we would argue that
17 anything from a C&D site, or from a construction site
18 rather should be C&D waste. Your concerns can be met by
19 the limitation of putrescible material. You can even
20 have in this unique area requirements, affirmative
21 requirements on the amount of recycling that has to
22 occur within each tier.

23 Those are things that could be addressed in,
24 you know, if there was some ongoing dialogue. And one
25 way to address what I think is a very important issue

1 here is to maybe use the definition of something like
2 acceptable C&D waste to say that the kind of C&D waste
3 that can go into these facilities is the way that it's
4 been defined here. Otherwise, the result will be that
5 haulers who currently have the right to go out and put
6 down a 3-yard bin to pick up regular office waste at a
7 construction site, and a larger bin to pick up what we
8 are all referring to as C&D material, will suddenly find
9 themselves in the position where the franchise haulers
10 are arguing no, no, no, we get to do the 3-yard bin, and
11 it will have an impact on existing franchise rights and
12 nonfranchise rights in the hauling industry.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you very
14 much.

15 Jim Hemminger followed by Charles Rea.

16 MR. HEMMINGER: Thank you.

17 Jim Hemminger here on behalf of the ESJPA,
18 which represents 21 rural counties throughout the
19 state. Being brief, our concerns probably pale in
20 significance to some of the other larger issues that are
21 being dealt with.

22 And I was here today pretty much just to
23 inform the Board that we would be making comments during
24 the formal review period.

25 We haven't had the opportunity really much to

1 talk with Allison. I don't think our issues are that
2 significant, and we're looking to see what other things
3 we can sort out. If there is this 30-day extension,
4 hopefully we'll have an opportunity to talk.

5 The only concern here really for rurals is
6 the C&D regs unlike transfer station regs really don't
7 appear to have much of an impact on the rurals. And
8 I did want to advise the Board, or Allison if it's
9 continued, that I did get some feedback from the rural
10 counties, mom-and-pop operations, that are handling
11 a couple of 3 tons per day perhaps on average in the
12 30-day period; that the Board considered the feasibility
13 of some type of exclusion for very low volume sites.

14 I realize that there's a process in the
15 regulation for exemptions through a public hearing, but
16 I would be asking the Waste Board, and I will be meeting
17 with rural counties tomorrow to come up with some small
18 number specifying less than so many tons a day, less
19 than storage of so many tons on site. That
20 consideration, in addition to the exemption process,
21 be given to exclusion of what I'll call the mom-and-pop
22 operations.

23 Generally speaking, it seems as though the
24 notification tier is fairly simple to comply with what
25 it is for many businesses and companies dealing with the

1 government on a regulatory basis. But in the rural
2 counties there are these are these mom-and-pop
3 operations. I think even just filling out a report at
4 the facilities operations or something could be
5 difficult. And if they're small enough, I'd appreciate
6 the consideration of exclusions.

7 Thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you.

9 Charles Rea followed by Steven Johnson.

10 MR. REA: Charlie Rea with the Construction
11 Materials Association of California.

12 I just primarily want to thank the Board
13 members and staff on behalf of our members. Thank you
14 for your attention to our concerns.

15 The current draft of the proposed regulations
16 looks like it addresses our issues and will help
17 continue the beneficial recycling of concrete and
18 asphalt products.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you.

20 Excuse me, Mr. Johnson wanted to speak on 5.

21 Mike Schmaeling followed by Denise Delmatier.

22 MR. SCHMAELING: Morning chairman and Board
23 members. Good to see you all again.

24 I want to commend the staff for working so
25 hard on this. As a matter of fact, I think it was

1 a little too hard. We just received these, as you
2 heard, a couple days ago. I sent out a mass e-mail to
3 all the LEAs. As of this morning, I only had two
4 replies as far as, you know, comments back on this.

5 The fact that we're having the workshop
6 Thursday says that we're going a little too fast.
7 We can't keep up with Board staff. They're just doing
8 too good of a job on this.

9 With the holidays coming up, I'd kind of like
10 to see it moved to February, if at all possible. Just
11 because trying to get, coordinate all these comments
12 from all the LEAs over the holidays is going to be
13 really rough.

14 Thank you much.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you.

16 Denise Delmatier followed by John Armond.

17 MS. DELMATIER: Madam Chair, members of the
18 Board, Denise Delmatier with NorCal Waste Systems.
19 I appreciate the opportunity to comment on this item.

20 We have to echo the concerns that was
21 expressed in particular by Mr. Board Member Jones.
22 We were a little bit dismayed at the agenda briefing to
23 see the rather dramatic change in the 100 tons per day
24 to 300 tons per day.

25 And as Mr. Jones mentioned, the Board does

1 have real experience with bad operators coming through
2 the cleanup problems for facilities that have caused
3 tremendous detriment to environment, public health and
4 safety. And so we have experience. And the folks who
5 testified earlier on this item I'm sure have wonderful
6 operations, but that's not what these regulations want
7 to protect. And what we want to protect is public
8 health, safety, and environment.

9 300 tons per day, as Mr. Jones outlined, is
10 just way too big, way too big. And it just is going to
11 be, has left that door wide open for bad operators to
12 come in without any real regulatory oversight at all.

13 So we would strongly encourage the Board to
14 direct staff to return to 100 tons per day. We're not
15 sure where that came from. We appreciate Mr. deBie's
16 comments. We were pretty much caught off guard to see
17 that number in the agenda briefing.

18 Thank you.

19 BOARD MEMBER PAPARIAN: Madam Chair.

20 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

21 BOARD MEMBER PAPARIAN: Denise, I don't want
22 to put you on the spot, but we've gone through this a
23 few times with these regulations. What I'm wondering
24 is, from your perspective and from our staff's
25 perspective, is it, will time resolve the issue or is

1 there some fundamental disagreement here, do you think?

2 MS. DELMATIER: There is a fundamental
3 disagreement time will resolve, I believe. There's
4 obviously a number of ways to go about it procedurally.
5 One is, as Mr. deBie mentioned, is to direct staff if
6 there are board members agreed on the Board today, to
7 direct staff to return to the 100-ton-per-day number and
8 go out in that fashion.

9 That's where we had consensus, I thought
10 before. And so we can certainly move ahead with the
11 regulations if there are four Board members that agree
12 that staff should be directed to return to what
13 I thought was a consensus number: 100 tons per day.

14 If that's not, if that's not the preferred
15 option for the Board, then obviously we can delay for
16 a month and come back with that direction. I don't
17 think it's necessary, if we can move ahead today and we
18 can direct staff accordingly. But if the Board members
19 aren't predisposed to do that today, then we can come
20 back at the next Board meeting and try and resolve it in
21 30 days.

22 I didn't hear a real problem from staff's
23 description of what the time line's going to be anyway
24 by delaying 30 days, because the development of the
25 physical impact analysis, that's going to push the

1 actual notice back in any event.

2 So there is a natural time delay in the
3 development of the physical impact analysis. It has to
4 be done before the formal notice goes out.

5 Thirdly, you can ignore both of those options
6 and then just continue discussion until we get it,
7 quote, right. I think that from your perspective would
8 not be a desirable avenue to proceed from a timeliness
9 perspective.

10 So those are, you know, obviously three ways
11 to go.

12 BOARD CHAIR MOULTON-PATTERSON: Senator
13 Roberti wanted to speak.

14 BOARD MEMBER PAPARIAN: I'm sorry, I wasn't
15 quite done. I wanted to hear back from our staff also.

16 With respect to the 100-ton issue seems to be
17 the stumbling block here. Can you help educate me, what
18 are the pluses and minuses of going to the level that
19 Denise is suggesting?

20 MR. DE BIE: You know, it basically factors in
21 who would qualify for a notification and who would
22 qualify for a full permit is depending on where you put
23 the numbers. So if you have a facility that if you take
24 the 100-ton-per-day level and you have a facility that's
25 99 tons or 100-tons they would qualify for

1 notification. Anything more than that they would have
2 to get a full permit, you know. And if you do the same
3 with 300, it just shifts who's in and who's out.

4 Again, the 100 ton figure was what the staff
5 started with based on the transfer station regs. And
6 when we put it out last month, it was clear there was
7 not consensus among the various stakeholders on that
8 number. There were many voices saying it was way
9 too low.

10 So staff recalculated. We did calculations
11 based on comparison of density, MSW plus C&D to come up
12 with a number that was basically equivalent to the
13 100 ton in a C&D value in an effort to get more
14 consensus, but it's obvious we're still not there.

15 BOARD MEMBER PAPARIAN: It seems like in terms
16 of a time delay it sounds like you'll still, you still
17 won't like the 100 tons in a month, in all likelihood.

18 MR. DE BIE: It's not staff liking or
19 disliking. It's the Board's desire to have more
20 stakeholder agreement on what the value should be.
21 We can certainly continue working with the Bay Area
22 stakeholders on the number and see if, if there's any
23 give and take one way or the other.

24 I hesitate, but I'll put it out there that
25 maybe there's a number that's set up. And I did hear

1 at least one speaker say maybe there's other mechanisms
2 that we could attach to an operation to address some of
3 the concerns relative to a high or a low number.
4 We could look at those. So there may be some consensus
5 eventually on a number, but then there may be other
6 conditions that we layer in associated with that
7 number. And those could be explored in the next
8 30 days.

9 My sense is that they could be quite
10 convoluted and involved and would require consensus of
11 determining what those are. So you could start sort of
12 a whole domino effect when we start opening up other
13 options.

14 Again, Board staff feel that we can support
15 100, based on existing regs. And we feel that we have
16 support for the 300 in terms of sort of adjusting for
17 the density factor and the general perception that C&D
18 tends to be less problematic than the MSW. So, you
19 know, it's sort of a conclusion that more wouldn't
20 necessarily create additional problems.

21 We'll again seek from the Board direction on
22 what an adequate number should be.

23 BOARD MEMBER PAPARIAN: Thank you.

24 SENATOR ROBERTI: Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Senator.

1 SENATOR ROBERTI: Mr. deBie, how many
2 landfills are we talking about that would come within
3 this 110 and 330 or whatever it is?

4 MR. DE BIE: Well, we're not speaking about
5 landfills, we're speaking about transfer and processing
6 operations.

7 SENATOR ROBERTI: Transfer, excuse me, yeah.

8 MR. DE BIE: It depends on who you talk to on
9 how many will fall in or fall out. And it depends on
10 how people are reading the regulations in terms of how
11 they feel things can be applied.

12 I heard a couple speakers that made statements
13 that Allison and I aren't really clear on how they're
14 reading the regs to come to those conclusions. So maybe
15 it's a lack of clarity.

16 So it would be hard to gage right now, based
17 on conversations we've had with stakeholders, to verify
18 how many would be in or out.

19 Our sense -- and maybe I'll defer to Allison
20 she's done several visits and talked more intimately
21 with the stakeholders-- when you're looking at the 300
22 level, in terms of notification or solid waste facility
23 permit outside away from the recycling exemption,
24 there's just a handful that would come into play in
25 terms of where they would fall.

1 SENATOR ROBERTI: So you're saying a handful
2 between the 110 and the 330? How about --

3 MR. DE BIE: The 100 and the 300 where that
4 value would factor in would be -- my sense is looking at
5 those facilities that would need to, that would, where
6 the 100 or 300 number would be crucial to them would be
7 a handful. I think there's a lot more that have, that
8 would come into play before you get to that, and that's
9 in regards to determining whether they're recycling
10 centers or not.

11 And you heard testimony that there's
12 approximately 32 C&D processors in L.A. A number of
13 those may actually qualify for being recycling centers
14 and not have to look at a tonnage value, because they
15 are taking extremely clean loads in.

16 SENATOR ROBERTI: That's what, less than 10,
17 less than 10 percent residue or...

18 MR. DE BIE: They would need to meet the
19 two-part, or actually the three part test that the
20 material is source separated, there's less than 10
21 percent that goes to disposal, and then that 1 percent
22 of material coming in is, no more than 1 percent can be
23 putrescible.

24 SENATOR ROBERTI: How many, Ms. Delmatier --
25 as far as numbers of recycling centers -- do you think

1 we're talking about in this middle area between the
2 staff's recommendation and your request?

3 MS. DELMATIER: In all honesty, Senator,
4 I don't have those kinds of factual numbers. I don't
5 even think the staff has those kinds of numbers.

6 The concern here is that the 10 percent
7 residual garbage, and 10-percent of 300 tons is a lot,
8 as Mr. Jones pointed out. 1 percent putrescible of 300
9 tons is a lot of putrescible per day. That's a lot of
10 garbage that would be in the notification tier with
11 virtually little regulatory oversight.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you.

13 And our court reporter needs a short break, so
14 I'm going to have to interrupt the testimony right now.

15 Did you want to announce --

16 BOARD MEMBER MEDINA: Yes, Madam Chair.

17 Because we have an Item No. 15 that is time
18 certain, and due to scheduling conflicts we are going to
19 have to move Item 15 to January.

20 BOARD CHAIR MOULTON-PATTERSON: Okay. So we
21 won't be hearing Item 15. And that will be moved to
22 January.

23 And at this time we'll take a 10-minute
24 break.

25 Thank you.

1 (Recess taken.)

2 BOARD CHAIR MOULTON-PATTERSON: While we're
3 waiting for Mr. Jones, we'll go ahead and start with
4 ex partes.

5 Mr. Eaton.

6 BOARD MEMBER EATON: Just a couple of meet and
7 greets with Evan Edgar and Bruce Coddard.

8 BOARD CHAIR MOULTON-PATTERSON: And I have
9 none.

10 Mr. Medina.

11 BOARD MEMBER MEDINA: Marc Aprea regarding the
12 C&D regs.

13 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

14 BOARD MEMBER PAPARIAN: Thank you.

15 Just a brief conversation with Mike Schedley
16 from Santa Barbara. Also Chuck White from Waste
17 Management regarding Item 10.

18 And then regarding Item 1, the C&D regs,
19 Judy Ware, from Ware Disposal. Patrick Munoz from, who
20 testified, and Marc Aprea.

21 BOARD CHAIR MOULTON-PATTERSON: Senator.

22 SENATOR ROBERTI: Yes, Madam Chair.

23 I spoke to Judith Ware regarding Item 1
24 C&D reg. And I spoke with Henry Louie regarding
25 disposal site cleanup funds.

1 BOARD CHAIR MOULTON-PATTERSON: Okay.

2 Thank you.

3 Mr. Medina.

4 BOARD MEMBER MEDINA: Yes, Madam Chair.

5 It is my intention to move this item until the
6 regularly scheduled meeting in January. I'd just like
7 to use the workshops so that staff and stakeholders can
8 work through some of these issues that have been raised
9 today.

10 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

11 BOARD MEMBER EATON: Mr. Medina, given the
12 fact that the holidays are just around the corner for
13 our staff and some of the others, I share your
14 concerns. I don't have any problem with the motion, but
15 I also want some sort of definitive kind of end to it.
16 If we just, because of the holidays and then when we get
17 back there's sort of a hiatus and I think our Board
18 meeting is fairly quick right after that. And if we
19 said February is our deadline date, and I am ready at
20 that point to pick a number, I'm ready to pick a number
21 now. But that way we give the staff at least a chance
22 through the holidays. I know Ms. Reynold's has worked
23 on this, and she probably doesn't want to go through the
24 holidays having to worry about this any more than she
25 has to. But that might be just a drop dead in the

1 Board's intention to signal that you guys, whatever you
2 need for the mechanism. I hear from staff that the
3 Board, they're looking to us really to kind of like give
4 them some bolstering as to, okay, you know, it's time to
5 fish or cut bait.

6 So if we do that, would it be in January?
7 I think February is better. Gives us a little more
8 time, but it also sets a firmer date. But I'll go along
9 with whatever the rest of you would like. I think
10 that's a consideration if others feel the same way.

11 BOARD MEMBER PAPARIAN: Madam Chair.

12 BOARD CHAIR MOULTON-PATTERSON: Yes.

13 Mr. Paparian.

14 BOARD MEMBER PAPARIAN: Yeah. I mean,
15 I actually at one point was going to suggest the January
16 briefing which would be earlier. But the January
17 meeting date I believe is about January 25th, which does
18 allow almost the whole month of January.

19 BOARD MEMBER EATON: But the three of us are
20 going to be gone a good portion of that month.

21 BOARD MEMBER PAPARIAN: Yeah.

22 BOARD MEMBER EATON: And I really want to go
23 up and find out when I hear that 10-percent residual,
24 I mean, I want to see what 30 tons are when it drives
25 down a road, you know, is it really 30 trucks, as

1 Mr. Jones says? And solid waste, you know, those kinds
2 of things as you look out. I guess I'd be happy to do
3 it in the next couple of weeks. I think if we put
4 pressure, that's fine, whatever. I was just suggesting
5 as a way of, you know, a staff courtesy. I'm ready to
6 go.

7 BOARD MEMBER PAPARIAN: I'd also like to --
8 this has come before several times in various forms.
9 You know, I think it's time to set a date certain where
10 it's really going to happen, and we're really going to
11 put them out there and we're really going to get
12 comments back and respond to those formal comments.

13 And so, I mean, I'd like to see, you know,
14 whatever this is delayed to being a very certain date.
15 That that's the date we're going to, you know, fix that,
16 we're going to work to fix whatever we can; but we're
17 going to move forward to the public-comment phase.

18 It sounds also like the staff is looking for
19 some direction on a couple of these key issues, because,
20 I mean, no matter what we do on some of these issues
21 some group of stakeholders is likely to be unhappy.
22 So I'm wondering if we should perhaps try to give some
23 direction.

24 BOARD CHAIR MOULTON-PATTERSON: I think
25 we should give direction, but I think we need to hear

1 more. And I'm for continuing it until the January 22nd
2 meeting, if that's okay with you, Mr. Eaton --

3 BOARD MEMBER EATON: That's fine.

4 BOARD CHAIR MOULTON-PATTERSON: -- since it is
5 a little bit later.

6 Is that the -- did you want to give some
7 direction at this point?

8 I'd like to see staff go back, meet with the
9 people. And let everybody know that, you know, not
10 everybody's going to be happy on this. But, you know,
11 we have another month, you know, hopefully that will be
12 it.

13 BOARD MEMBER EATON: And then perhaps after
14 the workshop --

15 BOARD CHAIR MOULTON-PATTERSON: Or a month and
16 a half.

17 BOARD MEMBER EATON: Is there going to be
18 a workshop?

19 Is that going to be part of the direction,
20 Mr. Paparian.

21 BOARD MEMBER PAPARIAN: That's Mr. Medina's
22 direction at this point, I believe.

23 BOARD MEMBER MEDINA: There should be
24 a workshop so that, again, we can --

25 MS. NAUMAN: We do have a workshop scheduled

1 for Thursday. If you're referring to the January
2 briefing workshop, is that the thought?

3 BOARD MEMBER EATON: I just want to basically
4 at some point in the work-up that we get, whenever this
5 is continued to, that we have one of the three or four
6 outstanding issues then the Board members can make that
7 decision at that time, you know. I mean, that way we
8 don't get caught in another extraneous type of issue
9 that suddenly pops up that we may not have envisioned
10 today.

11 But if we narrow those issues, if it is the
12 tonnage, the issues that the rurals have mentioned, it
13 still may not be resolved. For instance, my
14 understanding is the rurals' issue has to do with
15 facilities, but also slash piles which are, you know,
16 all kind of things. And those are issues. That would
17 give us the ability to make that decision whatever date
18 you decide and it narrows those issues.

19 BOARD CHAIR MOULTON-PATTERSON: Ms. Nauman,
20 would a January 22nd meeting be okay with you?

21 MS. NAUMAN: January would be fine with the
22 staff. We appreciate you keeping this on a tight time
23 line. As you know, we're trying very hard to move
24 through this first phase of the regulations, so we can
25 get to the disposal side of it which has some very

1 critical issues for the Board.

2 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

3 And any ex partes also?

4 BOARD MEMBER JONES: I just was with my friend
5 Mr. Proto. He used to be with Oakland and now is with
6 NorCal. Haven't seen him for awhile.

7 Is there an opportunity to look at while
8 you're looking at this reg package through the delay to
9 look at our tiers and say, is it appropriate to have a
10 registration tier as opposed to a full solid waste
11 facility permit.

12 If you go from zero to 100 it's a
13 notification, 100 to 300 or 400 is registration or even
14 500 is registration. And then from there on a full
15 solid waste facility permit would seem appropriate.
16 Because the LEAs could then set conditions. We would
17 have a better understanding of the putrescible and of
18 the -- you know, one thing I do want to say and, I know,
19 I'll do it quickly:

20 When a lot of people think of C&D sites, they
21 think of the big building deconstruction sites. You can
22 have a box at this building today if somebody was doing
23 a little bit of work on the inside that could be
24 categorized as a C&D site and could have every kind of
25 garbage in it in the world. That's the reality of how

1 C&D is looked at. Not the huge construction sites,
2 okay. There it's probably easier to control. It's
3 those types of things that are a problem.

4 So if you can just look at registration as
5 being appropriate, I want to throw that in the mix and
6 it may take a lot of concerns of both the industry and
7 the LEA into place.

8 MR. DE BIE: We can look at registration.
9 Just point of clarification part of your statement, the
10 LEA cannot write conditions in a registration permit.
11 It does require more paperwork and there's, it is
12 a permit, and so the frequency of inspections increase.
13 But they don't have the option in either a registration
14 or a standardized permit to include site-specific
15 conditions. That's only --

16 BOARD MEMBER JONES: Not site-specific
17 conditions but they can include conditions. And if they
18 can't, we'll write them into these regulations.

19 MR. DE BIE: As part of their facility plan --
20 and we do have that requirement of facility plan --

21 BOARD MEMBER JONES: Right.

22 EXECUTIVE DIRECTOR LEARY: -- they're required
23 to indicate how they're going to control certain things.
24 So that would be an aspect of it.

25 Just to make sure the Board understands that

1 in rolling this Phase 1 an additional month, it does
2 play into the overall schedule. I think currently we
3 were looking at completing both Phase 1 and 2 in the
4 July time frame. We will not be delaying Phase 2, we'll
5 begin Phase 2 in kicking that off with the workshop on
6 Thursday, so they'll overlap more so than we had
7 expected.

8 But because of resource issues, we may need to
9 extend the overall time frame for completing both
10 phases. And you may be looking at August now for
11 Phase 2 being completed.

12 But we'll try as best we can to keep with the
13 schedule.

14 BOARD CHAIR MOULTON-PATTERSON: And I want to
15 thank the staff for doing a really great job and working
16 with everyone. And I know they'll continue to.

17 I do have more speaker slips. If you really
18 need to speak, you know, we'll let you, but we really
19 have a full agenda. And with our time constraints,
20 since it's been held over, is there anyone that has
21 signed up that feels they must speak?

22 Okay, then we'll move on. Thank you very
23 much.

24 Number 2.

25 MS. NAUMAN: Item No. 2 is Consideration of

1 a Revised Solid Waste Facility Permit for the John Smith
2 Landfill, located at San Bernito County.

3 Jon Whitehill will make the presentation.

4 BOARD CHAIR MOULTON-PATTERSON: Okay.

5 Thank you.

6 Please go ahead.

7 MR. WHITEHILL: Good morning, Madam Chair,
8 Board members.

9 John Smith Landfill began operating in 1968
10 and is currently operating under a 1993 solid waste
11 facility permit. It's owned and operated by San Benito
12 County Integrated Waste Management Department. And the
13 landfill primarily serves the City of Hollister and the
14 surrounding areas of San Benito County. The surrounding
15 land use is agricultural and range land.

16 This proposed permit before you today
17 addresses the following changes: There's an increase in
18 the tonnage from 250 tons per day to 500 tons per day.
19 There's an increase in the hours and days that the
20 facility will be open to the public. There's an
21 increase in the finalelevation of the landfill from 805
22 feet to 855 feet. There's a decrease in the disposal
23 footprint. The original permit allowed, implied that
24 the entire 57-acre site could be used for disposal.
25 This new permit specifies a 44-acre disposal footprint.

1 This permit specifies traffic limits for
2 the first time. And there's also an adjustment to the
3 estimated closure date from the year 2012 to the year
4 2024. Now, as you know, sometimes it can be a long and
5 complicated process to revise a permit, so I'd just like
6 to touch on some of the difficult issues that current
7 LEA staff and operator has been working hard to
8 resolve.

9 First is the issue of off-site groundwater
10 contamination. As you read in the agenda item, due to
11 past disposal practices, groundwater has been
12 contaminated up to 600 feet away from the site.
13 However, the operator has since installed extraction
14 wells to help contain groundwater contamination.
15 They're in compliance with all Water Board WDRs and
16 their compliance orders.

17 In addition, they've made many operational
18 improvements at the site to help contain groundwater and
19 minimize groundwater impacts, such as better daily and
20 intermediate and final cover, better drainage and
21 grading at the landfill. And in addition, the vertical
22 expansion at the site will be designed so that any water
23 that infiltrates will flow towards the lined area.

24 Another issue is that there is an adjacent
25 Class 1 disposal site here at the landfill. There's an

1 old, closed pesticide-residue impalement just to the
2 west of the landfill. It's owned by the City of
3 Hollister. And the Class 3 operations are not allowed
4 to impact the final cap at this closed, small hazardous
5 waste facility. So they've had to, over the years,
6 coordinate all the various approvals with the Department
7 of Toxic Substance Controls for operation in and around
8 that area.

9 Also in the past there have been
10 landfill-gas-migration issues. However, the operator
11 has since improved the gas collection system and they
12 were removed from the inventory in June of this year.

13 In addition, the LEA has had to assume the
14 role as lead agency at this facility. There were no
15 other local permits that needed to be revised, and so
16 the LEA had to come up to speed on being the lead agency
17 for CEQA. They were able to make sure that all the
18 various documents were consistent with CEQA during this
19 process. And they were able to combine CEQA for other
20 projects such as this into one document. So in the long
21 run there will be more efficient use of staff time.

22 Also, during this process the LEA was under
23 evaluation. However, they're in compliance with an
24 approved work plan which requires them to issue a new
25 permit for this facility by December of this year.

1 So as you can see, they're essentially in
2 compliance with their work plan and issuance of this
3 permit will essentially complete their evaluation.

4 And of course last but not least is the
5 development of the revised permit itself, which will
6 help to resolve past and current violations of terms and
7 conditions and also resolve past disagreements about
8 what some of those terms and conditions meant in the old
9 1993 permit.

10 So in conclusion, Board staff have determined
11 that all requirements for the proposed permit have been
12 fulfilled. And Board staff recommend that the Board
13 adopt Board Resolution No. 2001-474 concurring with the
14 issuance of Solid Waste Facility Permit No. 35-AA-0001.

15 That concludes my presentation. However,
16 Matt Forbe representing San Benito County LEA is here in
17 case you have any questions. And also Mandy Rose
18 representing the County Integrated Waste Management
19 Department can answer your questions.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you
21 very much.

22 Any questions?

23 Mr. Paparian.

24 BOARD MEMBER PAPARIAN: Thank you, Madam
25 Chair. Just a couple.

1 The two residences -- I think we went over
2 this a little bit at the briefing. But can you review
3 whether there's any interrelationship between those
4 residences and the gas migration concerns and just where
5 those residences are in relation to the landfill?

6 MR. WHITEHILL: I believe one of the
7 residences is on the opposite side of the landfill from
8 where the landfill gas migration was. The other
9 residence was kind of in the general direction. But we
10 don't believe that the landfill gas ever migrated far
11 enough off site to, you know, impact the actual
12 residence.

13 And during the last state inspection,
14 conducted jointly with myself and the LEA, there is no
15 longer any landfill gas migration taking place at the
16 landfill.

17 BOARD MEMBER PAPARIAN: So their landfill gas
18 mitigation seems to be working?

19 MR. WHITEHILL: Yes, it is.

20 BOARD MEMBER PAPARIAN: The Department of
21 Toxic Substances Control has the -- I have visited the
22 site, so I understand they have the closed
23 hazardous-waste facility kind of within the solid waste
24 facility.

25 What is -- what we're approving today would be

1 something adjacent to the toxics facility, right?

2 MR. WHITEHILL: Just to clarify, the old
3 Class 1 disposal facility is not going to be contained
4 within the solid waste facility permit boundary that
5 we're looking at today. It would be separate but
6 adjacent, owned by the City of Hollister as opposed to
7 the County.

8 And the operator's here, if you have any
9 questions about approvals or the status of any approvals
10 that are needed from the department of toxic substances
11 control.

12 BOARD MEMBER PAPARIAN: Does it appear that
13 Toxics has to approve something with regard to what
14 we're approving here today.

15 MR. WHITEHILL: It's only very indirectly,
16 I believe. And maybe Mandy can help me out if I start
17 to go wrong.

18 But I think mostly they're going to be storing
19 some barrowed dirt on the Class 1 facility, and there's
20 also some aspects of the Class 3 facility that
21 indirectly affect drainage surrounding the site.

22 MS. ROSE: As John indicated, the Class 1
23 facility is closed, and it's completely separate. It's
24 a separate legal parcel from the Class 3 facility.
25 But because of the topography of the Class 1, the

1 drainage area that is currently being utilized from
2 the Class 1 is in the area you are considering approving
3 today and that is part of our final footprint for the
4 Class 3.

5 What we have to get from the Department of
6 Toxics is called a Part B modification to our
7 post closure permit and that's to allow us to place dirt
8 in one corner, the southern corner of the site, to allow
9 for that drainage. If Toxics is in the process of
10 approving that permit right now or reviewing those
11 documents for that approval, it would be -- and I think
12 we had this discussion -- somewhere between 10 and 15
13 years of the 24 years we have left before the drainage
14 would be impacted. So if Toxics takes longer than
15 a year or so to do that, we would not be impacted in
16 that area for that length of time.

17 EXECUTIVE DIRECTOR LEARY: Thank you.

18 MS. ROSE: For the record, Mandy Rose,
19 Director of Integrated Waste Management Department
20 San Benito County.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you.

22 Okay. Mr. Jones.

23 BOARD MEMBER JONES: Madam Chair, I'll move
24 adoption of Resolution 2001-474, Consideration of a
25 Revised Solid Waste Facility Permit for the John Smith

1 Landfill in San Benito County.

2 BOARD MEMBER MEDINA: Second.

3 BOARD CHAIR MOULTON-PATTERSON: Motion by

4 Mr. Jones, seconded by Mr. Medina, to approve Resolution

5 2001-474.

6 Please call the roll.

7 BOARD SECRETARY VILLA: Eaton?

8 BOARD MEMBER EATON: Aye.

9 BOARD SECRETARY VILLA: Jones?

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY VILLA: Medina?

12 BOARD MEMBER MEDINA: Aye.

13 BOARD SECRETARY VILLA: Paparian?

14 BOARD MEMBER PAPARIAN: Aye.

15 BOARD SECRETARY VILLA: Roberti?

16 SENATOR ROBERTI: Aye.

17 BOARD SECRETARY VILLA: Moulton-Patterson?

18 BOARD CHAIR MOULTON-PATTERSON: Aye.

19 Number 3.

20 MS. NAUMAN: Item 3 is Consideration Of

21 a Revised Solid Waste Facility Permit For The Desert

22 Center Landfill In Riverdale County.

23 Willy Jenkins will make the presentation.

24 And I believe you have copies of the revised permit.

25 MR. JENKINS: Good morning, Madam --

1 BOARD CHAIR MOULTON-PATTERSON: Good morning.

2 MR. JENKINS: Good morning, Madam Chair, and
3 Board members.

4 Also here today for this item are Glory Polk
5 and Doug Osborne of Riverside County LEA, and
6 Robert Nelson and Ann Annesser of the Riverside County
7 Waste Management Department. They're also here for
8 Item No. 4.

9 Agenda Item No. 3 is for Consideration of a
10 Revised Solid Waste Facility Permit for Desert Center
11 Sanitary Landfill in Riverside County. The facility is
12 operated by Riverside County Waste Management
13 Department. The facility was last permitted on
14 January 15th, 1991. The facility serves the
15 unincorporated communities of Lake Tamarac and Desert
16 Center. And the facility currently accepts residential,
17 agricultural, and construction demolition waste.

18 The revised permit would allow the following
19 changes: A decrease in the disposal footprint from
20 28 acres to 7 acres. A decrease in tonnage from 16 tons
21 per day to 60 tons per day. And this is not to exceed
22 480 tons per year. A change in operating days and hours
23 from seven days per week at an unmanned site to
24 8:00 a.m. to 4:30 p.m. the first Thursday in February
25 and the first Thursday in August. The operator may

1 increase the number of days not to exceed eight days per
2 year, 480 tons per year.

3 And as pointed out previously, there's
4 a revision to the previously revised permit where
5 it should read and slash or hours from 6:00 a.m. to
6 8:00 p.m. stipulating operation during daylight hours on
7 the prior LEA approval. There's also a decrease in
8 the total capacity from 205,000 cubic yards to 117,032
9 cubic yards. The change in the estimated closure date
10 from 2021 to 2011. There have been no statements among
11 standard violations in the past year.

12 Board staff has determined that all the
13 requirements for the proposed permit have been
14 fulfilled, including the closure, post closure
15 maintenance plan, financial assurance, and operating
16 liability, and the completeness of the joint technical
17 document.

18 In conclusion, the staff recommends that
19 the Board adopt Resolution No. 2001-471 concurring with
20 the issuance of Solid Waste Facility Permit 33-AA-0016.

21 And I can answer -- that concludes the
22 presentation. I can answer any questions.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 Any questions?

25 Mr. Jones.

1 BOARD MEMBER JONES: Madam Chair.

2 Just one question: The 7 acres that this new
3 disposal site will be for all disposal, is that
4 reflective of all the waste that's ever been deposited
5 there? Is that all going to fit in that 7?

6 MR. JENKINS: They're not going to go outside
7 the existing 7 acres. But let me check.

8 So, no, it's limited to that 7-acre site.

9 BOARD MEMBER JONES: Past, present, and
10 future?

11 MR. JENKINS: Yes.

12 BOARD MEMBER JONES: Okay. I just wanted for
13 closure issues to make sure we weren't doing something
14 that could mess up the closure.

15 Madam Chair, I'll make a motion to adopt
16 Resolution No. 2001-471, Consideration of a Revised
17 Solid Waste Facility Permit. Revised. -471 revised.
18 I'm sorry. For the permit for Desert Center Sanitary
19 Landfill in Riverside County.

20 BOARD MEMBER MEDINA: Second.

21 BOARD CHAIR MOULTON-PATTERSON: Motion by
22 Mr. Jones, seconded by Mr. Medina to approve Resolution
23 2001-471 Revised.

24 Please call the roll.

25 BOARD SECRETARY VILLA: Eaton?

1 BOARD MEMBER EATON: Aye.
2 BOARD SECRETARY VILLA: Jones?
3 BOARD MEMBER JONES: Aye.
4 BOARD SECRETARY VILLA: Medina?
5 BOARD MEMBER MEDINA: Aye.
6 BOARD SECRETARY VILLA: Paparian?
7 BOARD MEMBER PAPARIAN: Aye.
8 BOARD SECRETARY VILLA: Roberti?
9 SENATOR ROBERTI: Aye.
10 BOARD SECRETARY VILLA: Moulton-Patterson?
11 BOARD CHAIR MOULTON-PATTERSON: Aye.
12 Okay. Number 4.
13 MR. JENKINS: Mecca II Sanitary Landfill is
14 owned by Riverside County, owned and operated by
15 Riverside County Waste Management Department. It
16 accepts residential, agricultural, and commercial
17 waste. The site serves the communities of Mecca,
18 Thermal, and North Shore.
19 Effective October 1st, 2001 of this year
20 Riverside County changed it's operating plan, limited
21 the Mecca landfill operations to two days per week and
22 open only to commercial and self-haul loads to under
23 1-ton. Large loads are now, have been directed to
24 the Coach Hill Valley Transfer Station and the Eden Hill
25 Landfill.

1 The proposed revised would now allow the
2 following changes: Decrease in the disposal footprint
3 from 26.9 acres to 19. A change in operating days and
4 hours from 8:00 a.m. to 4:30 p.m., Wednesday and
5 Saturday.

6 The operator may increase the number of days
7 not to exceed four days per week. And again, the permit
8 that was previously revised and revised again reflects
9 and/or hours from 6:00 a.m. to 8:00 p.m., stipulating
10 operation during daylight hours only with prior LEA
11 approval.

12 There will be a decrease in the total capacity
13 from 445,895 cubic yards to 372,480 cubic yards. And
14 the new grading plan for twin closure of Phase 2.
15 A change in the estimated closure date would be from
16 2011 to 2005.

17 Staff conducted pre-permit inspection and
18 there were three statements among standard violations
19 noted. On December 5th of 2001 the LEA conducted
20 a reinspection and all violations have been corrected.

21 Board staff has determined that all
22 requirements for the proposed permit are fulfilled
23 including the closure, post closure, maintenance plan,
24 financial assurance, and operating liability and
25 completeness of the joint technical document.

1 Staff recommends adoption of
2 Resolution No. 2001-476 concurring with the issuance of
3 Solid Waste Facility Permit No. 33-AA-0071.

4 And I can answer any questions.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you.

6 Mr. Paparian.

7 BOARD MEMBER PAPARIAN: I am looking at the
8 permit that we were handed today.

9 MR. JENKINS: Yes.

10 BOARD MEMBER PAPARIAN: What I am trying to
11 find is you mentioned that it was going to be limited to
12 1-ton per load. It looks to me to be a 400-ton-per-day
13 permit, but I don't see the one -- I may have missed
14 it. I don't see the 1-ton per load.

15 MR. JENKINS: That was the 1-ton per load
16 refers to a memorandum that was sent out to haulers that
17 the Waste Management Department was limiting residential
18 self-haul loads and commercial loads to 1-ton only.

19 BOARD MEMBER PAPARIAN: Okay. So that,
20 so that's not an enforceable provision on our part?

21 MR. JENKINS: No.

22 BOARD MEMBER PAPARIAN: What's enforceable on
23 our part is the 400 tons per day?

24 MR. JENKINS: Yes. That's correct.

25 BOARD MEMBER PAPARIAN: Okay. Thanks.

1 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
2 BOARD MEMBER JONES: Thanks, Madam Chair.
3 I'll move adoption of Resolution 2001-476
4 Revised for Revised Solid Waste Facility Permit for the
5 Mecca II Sanitary Landfill, Riverside, California.
6 BOARD MEMBER MEDINA: Second.
7 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
8 a motion by Mr. Jones, seconded by Mr. Medina, to
9 approve Resolution 2001-476 Revised.
10 Please call the roll.
11 BOARD SECRETARY VILLA: Eaton?
12 BOARD MEMBER EATON: Aye.
13 BOARD SECRETARY VILLA: Jones?
14 BOARD MEMBER JONES: Aye.
15 BOARD SECRETARY VILLA: Medina?
16 BOARD MEMBER MEDINA: Aye.
17 BOARD SECRETARY VILLA: Paparian?
18 BOARD MEMBER PAPARIAN: Aye.
19 BOARD SECRETARY VILLA: Roberti?
20 SENATOR ROBERTI: Aye.
21 BOARD SECRETARY VILLA: Moulton-Patterson?
22 BOARD CHAIR MOULTON-PATTERSON: Aye.
23 Thank you.
24 Number 5.
25 MS. NAUMAN: The next two items 5 and 6 are

1 permits for Monterey County. Both of these will be
2 presented by Mary Madison Johnson.

3 The first is Item 5, Consideration Of A
4 Revised Solid Waste Permit For Lewis Road Landfill In
5 Monterey County.

6 MS. MADISON-JOHNSON: Madam Chair and
7 members.

8 The Lewis Road landfill is an existing
9 landfill located in Watsonville on 123 acres of which
10 4.5 -- 14.5 acres are used for disposal. It is
11 surrounded by rural, residential, and low-density
12 residential. It's owned and operated by Salinas Valley
13 Solid Waste Authority.

14 Before discussing the proposed changes with
15 you, there is quite some history that I wanted to share
16 with you and go over some background regarding this
17 permit.

18 This current permit is considered a DISCO
19 permit as it was issued in 1978 as part of the permativ
20 and enforcement divisions priorities identified from the
21 strategic plan. We identified a goal to update all
22 permits issued prior to 1990. At that time there were
23 about 69 permits that fell into that category. And
24 since that, as part of Division's efforts, 43 have been
25 revised, the facility has closed, and the permit has

1 been surrendered. 26 of the original 69 still need to
2 be updated on which this permit and the next permit you
3 will be considering is one of those. Division staff
4 continue working with the LEAs to whittle down this
5 list.

6 Three different CEQA documents were prepared
7 to support the various changes resulting in the lengthy
8 review for this proposed permit. Lewis Road Citizens
9 Action Committee filed a lawsuit in 1998 challenging
10 the certification of the 1998 mitigated negative
11 declaration, which was a big slowdown in the permit
12 processing. In fact, the LEA had proposed a permit over
13 a year ago, but prior to the conclusion of this lawsuit
14 they wanted to wait to see what the conclusion was
15 before we can carry on with consideration of the
16 permit.

17 On February -- in February 1999 the Court
18 filed a judgment which ordered the approval of the
19 mitigated negative dec to be set aside. The owner, the
20 LEA, and the action committee reached an agreement which
21 is embodied in a comprehensive settlement and a release
22 agreement which the Court approved in July of 2001.

23 The agreement allows the landfill to operate
24 under conditions which are different than those in the
25 1978 solid waste facility permit.

1 The LEA program also was understaffed for
2 extended periods of time. In early 1997 staff worked
3 with the LEA and met with them, with the managers to
4 address staffing issues. This resulted in an LEA budget
5 advancement, reassignment of staff into the program, and
6 a contract for LEA services, and several staff
7 recruitment efforts. That effort was completed in late
8 197- -- '98.

9 The LEA program suffered further staff losses
10 in following period. Board staff provided technical
11 assistance, new staff training, and prioritize workload
12 within the jurisdiction. The jurisdiction also
13 underwent extensive solid waste management change by
14 the development and formation of a new joint powers
15 authority in 1998.

16 The current LEA staffing allocation seems
17 adequate. Over the last year or so we have noticed a
18 tremendous improvement in the quality and quantity of
19 the work generated within the LEA's office. Board staff
20 is currently conducting an evaluation of the LEA
21 program.

22 There have been numerous enforcement orders
23 requiring action from the operator, however inadequate
24 packages were submitted. The facility had no financial
25 assurances until the current operator took over in

1 1998.

2 Lastly, there are regional issues and an EIR
3 is being prepared to evaluate options for long-term
4 disposal within the jurisdiction. And Lewis Road will
5 be closed by court order in January of 2003.

6 With that background, we had the proposed
7 permit which would increase the tonnage levels from
8 37 to 400 tons per day.

9 I would like to point out a change in the
10 agenda item on page 5. The tonnage increase is to allow
11 the facility to fill faster, to -- pursuant to the Court
12 settlement, which requires the site to close in January
13 of 2003. There will be no importation of waste outside
14 of Monterey County.

15 The proposed permit will also change the
16 operating hours and identify traffic volumes and access
17 routes.

18 Board staff have analyzed the package and have
19 found it to be consistent and meeting all requirements.
20 The agenda item and resolution have been updated to
21 reflect this fact and the copies have been handed out
22 and placed for the public.

23 Board staff recommend that the Board concur
24 with the issuance of this permit as proposed by the LEA
25 and adopt Revised Resolution 2001-475.

1 Representatives from the LEA and the operator
2 are here to assist with any questions you may have.

3 And finally, I would just like to acknowledge
4 Karen Scholnick with the LEA and Laura Niles of Board
5 staff for working on getting this package before your
6 consideration today.

7 That concludes staff's presentation.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you.

9 Questions?

10 Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Thank you,

12 Madam Chair.

13 The Lewis Road Citizens Action Committee, are
14 they still around? And if so, are they comfortable with
15 what's going on here?

16 MS. MADISON-JOHNSON: I'm sure they're still
17 around. And I think through the agreement they're
18 comfortable. But maybe I need to call up the LEA and
19 confirm that.

20 Thank you.

21 MS. SCHOLNICK: Good morning. Karen Scholnick
22 with the Monterey County LEA.

23 The Citizens Action Committee is definitely
24 still around. We do send them reports on a monthly
25 basis, so that they can be aware of the progress of the

1 facility. And they are very anxious. In fact, one of
2 the conditions of the settlement agreement was that
3 the facility permit would be revised.

4 And we have incorporated all of the conditions
5 that were in the settlement agreement within the permit
6 as separate conditions.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you.

8 BOARD MEMBER MEDINA: I had one question.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

10 BOARD MEMBER MEDINA: That's as a result of
11 the Lewis Road Citizens Action Committee lawsuit, the
12 judge declared that the site could not accept more than
13 2,000 tons per month, and yet this would permit up to
14 2,000 tons per week.

15 So how do we reconcile that?

16 MS. SCHOLNICK: I'm sorry, could you please
17 repeat the question?

18 BOARD MEMBER MEDINA: Yes. My question was,
19 as I understand it, the judge declared that the site
20 could not accept more than 2,000 tons per month. And
21 yet if we permit this we'll be permitting the 2,000 tons
22 per week.

23 MS. SCHOLNICK: Right.

24 I think that the 400 number that you're
25 looking at is, that's a peak amount. And if you will

1 look at page 4 of the terms and conditions of the permit
2 Item I under 17 does address that issue. So that while
3 they can reach the 400 tons per day as a peak, they are
4 restricted to the amount that they would be allowed to
5 bring in on a monthly basis.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you.

7 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

8 BOARD MEMBER JONES: Madam Chair, I'll move
9 adoption of Resolution 2001-475 Revised For Revised
10 Facility Permit For The Lewis Road Landfill, Monterey
11 County.

12 BOARD MEMBER MEDINA: Second.

13 BOARD CHAIR MOULTON-PATTERSON: A motion by
14 Mr. Jones, seconded by Mr. Medina, to approve Resolution
15 2001-475 Revised.

16 Please call the roll.

17 BOARD SECRETARY VILLA: Eaton?

18 BOARD MEMBER EATON: Aye.

19 BOARD SECRETARY VILLA: Jones?

20 BOARD MEMBER JONES: Aye.

21 BOARD SECRETARY VILLA: Medina?

22 BOARD MEMBER MEDINA: Aye.

23 BOARD SECRETARY VILLA: Paparian?

24 BOARD MEMBER PAPARIAN: Aye.

25 BOARD SECRETARY VILLA: Roberti?

1 SENATOR ROBERTI: Aye.

2 BOARD SECRETARY VILLA: Moulton-Patterson?

3 BOARD CHAIR MOULTON-PATTERSON: Aye.

4 Number 6.

5 MS. NAUMAN: Madam Chair and members, this is
6 consideration of the Jolon Road Landfill permit
7 revision. Jolon Road Landfill is an existing facility
8 3.5 miles southwest of King City on 36 acres of which 24
9 acres are used for disposal. It is surrounded by
10 agricultural and cattle grazing land. And owned and
11 operated -- it is owned by USA Waste and operated by
12 Salinas Valley Solid Waste Authority.

13 Much of the same background I went over for
14 the previous item applies to this facility also.
15 It is considered a DISCO permit. Four different CEQA
16 documents prepared. A joint powers of agreement was
17 formed. The LEA program had problems. The LEA issued
18 four different notice and orders allowing the site to
19 operate outside its terms and conditions utilizing the
20 then-Board's permit enforcement policy.

21 A temporary transfer station began operating
22 at the site in March of 1995, without a change in the
23 permit. The landfill ceased disposal activities in
24 1995, when all waste was directed through the transfer
25 station and taken to Johnson County and Crazy Horse

1 Landfill for disposal.

2 There are also regional issues with the
3 EIR being prepared to evaluate the long-term disposal
4 options.

5 The proposed permit would increase tonnage
6 from 35 to 100 tons a day. Allow operation of the
7 transfer station. Change the hours of operation.
8 Increase landfill height. Increase permitted area from
9 36 to 57 acres. Recognize the landfill is inactive and
10 change the estimated closure date.

11 Board staff has analyzed the package and found
12 it to be consistent with all the requirements. And with
13 the Board's previous approval of a nondisposal element
14 earlier today, it is now in compliance with all
15 requirements.

16 Board staff recommend that the Board concur in
17 the issuance of the proposed permit and adopt Resolution
18 2001-454.

19 Representatives from the LEA and operator are
20 present.

21 And again I wanted to acknowledge all the
22 work done by Karen Scholnick of the LEA's office and
23 Laura Niles of Board staff in getting this item to
24 the Board.

25 That conclude the staff presentation.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you.
2 Mr. Jones.
3 BOARD MEMBER JONES: Madam Chair, I'll move
4 adoption of Resolution 2001-454. Okay.
5 BOARD MEMBER MEDINA: Second.
6 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
7 a motion by Mr. Jones, seconded by Mr. Medina, to
8 approve Resolution 2001-454.
9 Please call the roll.
10 BOARD SECRETARY VILLA: Eaton?
11 BOARD MEMBER EATON: Aye.
12 BOARD SECRETARY VILLA: Jones?
13 BOARD MEMBER JONES: Aye.
14 BOARD SECRETARY VILLA: Medina?
15 BOARD MEMBER MEDINA: Aye.
16 BOARD SECRETARY VILLA: Paparian?
17 BOARD MEMBER PAPARIAN: Aye.
18 BOARD SECRETARY VILLA: Roberti?
19 SENATOR ROBERTI: Aye.
20 BOARD SECRETARY VILLA: Moulton-Patterson?
21 BOARD CHAIR MOULTON-PATTERSON: Aye.
22 BOARD MEMBER MEDINA: Madam Chair?
23 BOARD CHAIR MULTON-PATTERSON: Yes.
24 BOARD MEMBER MEDINA: As long as the Monterey
25 folks are here and our staff is here, I was going to

1 bring this up to the item but it's related to the item
2 itself.

3 There have been staffing problems in the past
4 with Monterey County LEA, and I just want to make sure
5 that our staff is comfortable with the abilities of
6 the Monterey LEA to oversee this facility and other
7 facilities in their jurisdiction at this point?

8 MS. NAUMAN: Thank you, Mr. Paparian.

9 You're correct. There have been staffing
10 issues in the past. We feel that they're adequately
11 staffed at this time. We are going through the
12 evaluation process currently and will be reporting back
13 to you on the results of that.

14 The staff will continue to keep a close eye on
15 the operation here and help the LEA with technical
16 assistance, where necessary, to insure that they are
17 able to keep up with this. And certainly if there are
18 any problems we'll report back to the Board.

19 BOARD MEMBER PAPARIAN: Thank you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you.

21 BOARD MEMBER MEDINA: So what does "adequately
22 staffed" mean? What was the staffing previously and
23 what is it now to this point?

24 MS. NAUMAN: I would ask the LEA to address
25 that. We've asked them specifically to be here today

1 to address your questions.

2 MR. JENNINGS: Good afternoon. I'm John
3 Jennings, the branch chief of the Solid Waste Hazardous
4 Material Branch for Environmental Health.

5 Prior to 1996 our LEA staff consisted of two
6 inspectors, a senior environmental health specialist,
7 and an environmental health specialist. Presently it
8 consists of a supervising environmental health
9 specialist, a senior environmental health specialist,
10 and two environmental health specialists, and
11 a full-time clerical support.

12 We had the support of our Board of
13 Supervisors, we redid our budget, we had the support of
14 our health director for our LEA program. And we're
15 looking toward the future of any future needs for
16 additional staff.

17 BOARD MEMBER PAPARIAN: Those five staff that
18 you just identified, are they exclusively LEA
19 responsibilities or do they have other responsibilities,
20 too?

21 MR. JENNINGS: They're exclusively LEA,
22 including landfills, compost facilities, we do medical
23 waste inspections, we regulate the garbage companies,
24 we go out on illegal dumping complaints.

25 BOARD MEMBER PAPARIAN: Okay. Thank you.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you

2 very much.

3 I have a big apology here. Is Stephen Johnson

4 here?

5 MR. JOHNSON: It's okay.

6 BOARD CHAIR MOULTON-PATTERSON: I'm sorry.

7 I apologize. I called you during Item 1, then forgot

8 you on Item 5. Sorry.

9 Okay. Item 7 has been pulled and that takes
10 us to Item Number 8.

11 MS. NAUMAN: Thank you, Madam Chair.

12 Item No. 8 is consideration of a New Full
13 Composting Facility Permit For Desert Solutions, Inc.,
14 in Riverside County.

15 And Willy Jenkins is coming back for this one.

16 MR. JENKINS: Madam Chair and Board members.

17 Also here for this item is Lori Hogue and Doug
18 Osborne. As David and Barbara Panulo (phonetic),
19 they're the operators-owners of Desert Solutions,
20 Incorporated.

21 The agenda Item No. 8 is for Consideration of
22 a New Solid Waste Facility Permit for Desert Solutions,
23 Incorporated.

24 The facility is located in an undeveloped
25 rural part of the City of Cathedral City approximately

1 a quarter mile west of Eden Hills Sanitary Landfill.

2 This facility was previously permitted up
3 until 1996. And operated as White Feather Farms
4 Composting Facility.

5 The facility permit eventually was revoked
6 by Riverside County, and the owner had abandoned
7 the business. Desert Solutions, Incorporated, purchased
8 the property in July 2000. And Desert Solutions is now
9 operating on site as a chipping and grinding operation
10 under an agreement with the Riverside County Waste
11 Management Department.

12 This waste that was abandoned by the previous
13 owner is being processed and trucked to the Eden Hill
14 Sanitary Landfill for use as ADC. The proposed
15 composting capacity of the site is 48,440 cubic yards.
16 The proposed tonnage volume is 255 tons of incoming feed
17 stock per day. Proposed traffic volume is 231 vehicles
18 per day. The permitted hours will be Monday through
19 Saturday, 7:00 a.m. to 7:00 p.m., Sunday 7:00 a.m. to
20 4:00 p.m., and this is as needed. Closed New Year's
21 Day, or closed any of the major holidays.

22 The feed stock will be green waste, manures,
23 source-separated food waste, and construction debris.

24 The compost process, which was previously
25 referred to as in vessel has now been changed on the

1 agenda item to be identified as the transformed compost
2 system. And this is how the process has been sold to
3 the operator or owner.

4 This -- the proposed Desert Solutions,
5 Incorporated project will be presented to the
6 Regional Water Quality Control Board in January 2002.
7 And which leads me into questions surrounding CEQA
8 lawsuit and water quality and water supply issues.

9 Currently there's in the lawsuit against the
10 owner/operator, and the group The Citizens for Clean Air
11 of the Desert has challenged the issuance of the
12 conditional use permit, for the approval of the
13 conditional use permit by the Cathedral City Planning
14 Department, and eventual approval by the City Council.

15 There are three major issues associated with
16 this lawsuit: The first one being fire protection,
17 second is water supply, and the third is water runoff.

18 The owner/operator has identified in the RCSI
19 that they will agree to any of the conditions set forth
20 by the water, State Water Resources Control Board or
21 Regional Water Quality Control Board.

22 In addition, they will agree to or satisfy the
23 requirements for fire protection and water supply, as
24 required by the Cathedral City Fire Department.

25 Regarding water runoff, that's also being

1 agreed to by the owner/operator. And the issue
2 surrounding water quality and the runoff has been
3 identified in the Draft WDRs by the Water Board.

4 Board staff has determined that all the
5 requirement for the proposed permit have been fulfilled,
6 including the conformance findings, Environmental
7 Quality Act requirements, report of composting site
8 information.

9 In conclusion, staff recommends that the Board
10 adopt Resolution No. 2001-472, concurring with the
11 issuance of the Solid Waste Facility Permit No.
12 33-AA-0238.

13 This concludes staff's presentation.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you
15 very much.

16 Any questions?

17 MR. DE BIE: Madam Chair, if I may. At the
18 briefing there were several questions I'd like to update
19 the Board on relative to those. One question was
20 whether or not anything in the permit would cause
21 the Regional Board a problem with their WDRs.

22 We have communicated with Regional Board
23 staff, and they are well aware of what this permit is,
24 contains and didn't see any issues with their process
25 and what they will be proposing.

1 It's our understanding that potentially
2 they'll be asking for a more beefed up liner system for
3 this facility, because of the water quality issues,
4 as well as some groundwater monitoring. It's a bit, bit
5 more than typically requested for compost facilities.
6 And that the LEA and I believe the operator are aware,
7 and Willy did indicate that if they need to modify any
8 design or operation that's characterizing our permit
9 they'll need to come back and revise that permit.
10 So any requirements the Water Board layers in that will
11 affect issues in our permit, they'll need to come back
12 and address that before they make those changes.

13 The other question was some update on
14 the lawsuit. It's our understanding that the first
15 hearing or a hearing will be held mid-January to discuss
16 the issues in front of the presiding judge. There was
17 some debate on what the issue should be that was brought
18 to the judge. Willy indicated the three that were
19 originally appealed during the administrative process,
20 and it looks like those will be the three that are fully
21 discussed.

22 The way the CEQA process works, unless there's
23 a stay or an injunction in place, responsible agencies
24 need to carry forward with their permit process, even if
25 there is litigation ongoing relative to a CEQA

1 document.

2 Board staff have done an independent review of
3 the CUP and feel that it fully covers all of
4 the areas in which the Board has direct authority and
5 responsibility in, and believe that all of the
6 mitigations are in place to avoid any significant
7 impacts.

8 And so we're confident with recommending
9 Board's concurrence.

10 BOARD MEMBER JONES: Madam Chair.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

12 Did you have a question?

13 Okay. Mr. Paparian then Mr. Jones.

14 BOARD MEMBER PAPARIAN: First of all, I want
15 to thank the staff for delving into this. I think
16 I might have raised some of the questions that we
17 pursued at the briefing last week, so I appreciate you
18 going and finding those answers.

19 Just one question at this point. The lawsuit
20 is challenging. CUP, conditional use permit, if they
21 are successful -- well, you're grimacing.

22 MR. DE BIE: I'm concentrating.

23 BOARD MEMBER PAPARIAN: Okay.

24 (Laughter.)

25 MR. DE BIE: Technically, it's challenging the

1 approval of the CUP, based on the CEQA document that was
2 used to support that approval. So it's a CEQA lawsuit.
3 It's challenging the quality of the document to
4 supported the CUP approval.

5 BOARD MEMBER PAPARIAN: So if it ultimately
6 leads to a major change in the CUP, that presumably
7 would affect our permit in some way, because our permit
8 is based on the existing CUP.

9 I just want to make sure that if there were a
10 major change in the CUP that -- well, let me just ask
11 what happens at that point.

12 CHIEF COUNSEL TOBIAS: Okay. Our permit
13 doesn't rest on the CUP. Our permit would rest on
14 the underlying CEQA documents.

15 If the judge found that the CEQA documents
16 were inadequate for the purposes of CEQA and the
17 approval of the CUP, at that point the CUP would not be
18 in effect. It would need to go back and look at the
19 documents.

20 It's an open legal question with respect to
21 responsible agency with what happens to their permit.
22 I have taken the position in the past that if the
23 underlying CEQA documents are invalid, then we don't
24 have a valid permit. This is something that was taken
25 up as a question for the CEQA guidelines and has not

1 been resolved, other than to have opinions of chief
2 counsels or legal offices on it.

3 So my position for the Board -- and has been
4 consistent for the last eight years -- is that at that
5 time our permit would again, basically, not be in effect
6 and they would need to come back through when they have
7 the correct CEQA documents.

8 When they go back to do their CUP, then we
9 would have that in front of us with the new CEQA
10 documents in order to issue a new Solid Waste Facility
11 Permit --

12 BOARD MEMBER PAPARIAN: Okay. Thank you.

13 CHIEF COUNSEL TOBIAS: -- Composting Permit.

14 BOARD MEMBER JONES: Thanks, Madam Chair.

15 I do want to thank them for giving a full
16 description of what in-vessel composting is, and I think
17 it more accurately reflects.

18 So I'd like to move adoption of Resolution
19 2001-472 Revised, Consideration of a New Full Composting
20 Permit for Desert Solutions, Inc., Riverside County.

21 BOARD MEMBER MEDINA: Second.

22 BOARD CHAIR MOULTON-PATTERSON: Motion by
23 Mr. Jones, second by Mr. Medina, to approve Resolution
24 2001-472 Revised.

25 Please call the roll.

1 BOARD SECRETARY VILLA: Eaton?
2 BOARD MEMBER EATON: Aye.
3 BOARD SECRETARY VILLA: Jones?
4 BOARD MEMBER JONES: Aye.
5 BOARD SECRETARY VILLA: Medina?
6 BOARD MEMBER MEDINA: Aye.
7 BOARD SECRETARY JONES: Paparian?
8 BOARD MEMBER PAPARIAN: Aye.
9 BOARD SECRETARY VILLA: Roberti?
10 SENATOR ROBERTI: Aye.
11 BOARD SECRETARY VILLA: Moulton-Patterson?
12 BOARD CHAIR MOULTON-PATTERSON: Aye.
13 And I think it's time for our lunch break.
14 Can we be back by 1:30 for closed session?
15 It will be short, about 15 minutes and then -- so the
16 audience should expect us back around 2- -- about 1:45.
17 (Recess taken for the noon hour.)
18 BOARD CHAIR MOULTON-PATTERSON: Okay.
19 I'd like to call the meeting back to order.
20 And we'll go to ex partes.
21 Mr. Eaton?
22 BOARD MEMBER EATON: Nothing to report.
23 Thank you.
24 BOARD CHAIR MOULTON-PATTERSON: Thank you.
25 Mr. Jones?

1 BOARD MEMBER JONES: Marc Aprea, Chuck White,
2 Ms. Delmatier, Kelly Aster. And then I said hi to my
3 friend from Salinas, and asked if he had gotten his test
4 back from his MOLO (phonetic) training. And he hasn't,
5 either. So I thought it was just me they were messing
6 with, but he hasn't gotten his either.

7 And that was it.

8 BOARD CHAIR MOULTON-PATTERSON: Okay.

9 Thank you.

10 Mr. Medina?

11 BOARD MEMBER MEDINA: None to report.

12 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian?

13 BOARD MEMBER PAPARIAN: Very brief
14 conversation with Lynsey Smith from Rubber Sidewalks.

15 BOARD CHAIR MOULTON-PATTERSON: And I have
16 none.

17 And I believe we finished 8, didn't we?

18 MS. NAUMAN: Yes, we did.

19 BOARD CHAIR MOULTON-PATTERSON: We're on to
20 Number 9.

21 MS. NAUMAN: Actually, Madam Chair, we'd like
22 to request that we pull item No. 9 from your agenda.

23 As we briefed you last week, we were waiting
24 for the permit to be submitted by the Merced County
25 LEA. We have not yet received the permit.

1 So we'd pull this title and wait for that
2 submission and then schedule accordingly.

3 BOARD MEMBER PAPARIAN: Madam Chair.

4 Yeah, it's -- Merced County again, need I say
5 more? Hopefully you're taking a close look at whether
6 there's any issues that are with the LEA?

7 MS. NAUMAN: We have advised the LEA that we
8 would appreciate their cooperation with the timing of
9 their submittal so that we can bring the item to you at
10 a regularly scheduled board meeting and not necessitate
11 a special meeting.

12 And I know Mark deBie has had conversations
13 with them and can certainly fill you in on those if you
14 wish.

15 BOARD MEMBER PAPARIAN: Thank you.

16 MS. NAUMAN: That brings to us Item No. 10.

17 Item No. 10 is Consideration of the Adoption
18 of Negative Declaration and Proposed Regulations for
19 Hazardous Waste Disposal Facilities Disposing
20 Nonhazardous, Nonputrescible, Industrial Solid Waste.

21 The Board will recall that we've been working
22 on these regulations since you directed us in January of
23 2000 to develop emergency regulations addressing
24 hazardous facilities accepting nonhazardous,
25 nonputrescible industrial solid waste. Those emergency

1 regulations are still in effect, and I'll address that
2 in a minute.

3 But just in terms of procedure on this item,
4 let me remind you that the public comment period for
5 this package of regulations officially closes tomorrow
6 at 5:00 p.m. We have to date not received any written
7 comments, although we understand -- I at least had one
8 conversation with one stakeholder that indicates they
9 will be submitting written comments. Staff's intention
10 to receive those comments close -- of public, public
11 review period -- tomorrow at 5:00. And then review
12 those comments and bring the package back to you at your
13 January meeting hopefully for your adoption at that
14 time.

15 I would suggest that, given the fact that
16 the public hearing for this package was noticed for your
17 two-day board meeting, that we finish our discussion of
18 this item today; that you, in essence, continue over
19 till tomorrow morning perhaps ask at that time if there
20 are any additional public comments, because there may be
21 people who understand that the official public hearing
22 might be the second day of your Board meeting as opposed
23 to the first day.

24 Then at that time you can close the public
25 hearing portion of it, the public comment period will

1 then close at 5:00. As I said, staff will review the
2 comments we receive and be back to you in January.

3 Mr. Paparian, did you want to stop me
4 at that point?

5 BOARD MEMBER PAPARIAN: I think I'm
6 understanding.

7 MS. NAUMAN: Okay. There's a difference
8 between the public hearing and the public comment
9 period.

10 BOARD MEMBER PAPARIAN: In January when we
11 come back, we will have the benefit of all the comments
12 written and whatever we hear at this meeting?

13 MS. NAUMAN: Yes.

14 BOARD MEMBER PAPARIAN: And at that point,
15 based on those comments, if we're not satisfied with the
16 package that comes before us, we can make changes at
17 that January Board hearing?

18 MS. NAUMAN: You can make changes and send it
19 out for another 15-day comment period.

20 Just while we're on the subject of procedure,
21 I want to indicate to you that with respect to the
22 emergency regulations that are currently in place --
23 and I reviewed with you at the briefing our existing
24 authority for those regulations is due to expire.
25 The date is January 25th -- we have received word from

1 the Office of Administrative Law that they will accept
2 our request to extend the emergency regulations for
3 another 120 days. So we don't need to be concerned
4 about emergency rates lapsing while we continue the
5 process of putting in place the final regulations.
6 Hope that's clear.

7 So that's -- the good news is that we have
8 gotten confirmation from them that they will grant
9 the extension on the emergency regs. Okay?

10 So that's kind of the background. I know that
11 there's testimony. So perhaps we should go to that,
12 then staff can answer any questions.

13 BOARD CHAIR MOULTON-PATTERSON: Any further
14 questions before we go to -- Mr. Jones?

15 BOARD MEMBER JONES: What do we have one or
16 two speakers?

17 BOARD CHAIR MOULTON-PATTERSON: Two, two
18 speakers.

19 BOARD MEMBER JONES: Madam Chair, I'll make
20 this quick.

21 Just a couple issues: One is the, the issue
22 of the financial assurances that I thought back in
23 May we had said as long as this material is going to
24 a Class 1 facility, it then becomes hazardous waste.
25 And it would be any facility closure would be closed to

1 DTSC's rules and regulations.

2 And if I am not mistaken, I thought we were
3 all in agreement of that on this Board. And then I see
4 the language back in that in fact the Board wants to
5 hold this form of waste to a different standard other
6 than DTSC has.

7 And I'm confused. And I just don't think
8 it's appropriate. I think that we set up a set of
9 regulations so that both waste streams could come
10 through the gate, but in actuality once it goes into
11 a Class 1 facility, it is hazardous waste. It is not
12 municipal solid waste. It will never be regulated as
13 municipal solid waste. It will never be close to the
14 standards of municipal solid waste. It will be close to
15 DTSC standards which are considerably more onerous than
16 what we have.

17 And that was the discussion I remember back in
18 May or April -- or May, I guess, May or June. And again
19 -- and yet the language is back here again, so...
20 Unless I missed something at that meeting.

21 MS. NAUMAN: Mr. Jones, I do recall that we
22 talked about all of those things. But the package of
23 regulations that the Board ultimately approved for
24 the 45-day comment period contains the language that
25 requires --

1 BOARD MEMBER JONES: It didn't have that
2 language in it.

3 MS. NAUMAN: Well, I'm going to pass on to --

4 BOARD MEMBER JONES: This language has been
5 added or re-added.

6 BOARD CHAIR MOULTON-PATTERSON: Mr. deBie.

7 MR. DE BIE: There may be some confusion about
8 what was in the emergency regulations that have been out
9 on the books for some time. And those regulations were
10 silent in this area.

11 But the regs that the Board approved for
12 45-day comment period did have the language in there.
13 Nothing has changed since the Board approved those
14 regulations for the 45-day comment period.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you.

16 Senator Roberti, did you have any ex partes
17 before we go on?

18 SENATOR ROBERTI: No, I did not. Thanks.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you.

20 We have Chuck White followed by Evan Edgar.

21 SENATOR ROBERTI: Madam Chair.

22 BOARD CHAIR MOULTON-PATTERSON: Yes, Senator.

23 SENATOR ROBERTI: Mr. Paparian reminded me
24 we talked to Lynsey Smith. I talked to Lynsey Smith of
25 Rubber Sidewalks regarding the use of oil contracts,

1 excuse me, the tire commercialization.

2 Thank you.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you,
4 Senator.

5 Mr. White.

6 MR. WHITE: Thank you, Madam Chair, members of
7 the Board.

8 Charles White representing Waste Management.

9 We do have comments which we will be submitting on these
10 proposed regulations. We will submit them in writing,
11 before the 5:00 deadline tomorrow.

12 I would like to take a few minutes, if I can,
13 just to briefly provide you with an overview of our
14 concerns. We don't have any concerns with the current
15 emergency regulations that are currently in place, and
16 we don't have a problem with the majority of the
17 proposed regulations.

18 However, there is one section of the proposed
19 regulations which in your agenda packet appears on
20 agenda packet page, actually starts on page -- Item 10,
21 page 10, and continues on to Item 10, page 11. And it's
22 a Section 17371, Financial Assurance Demonstrations For
23 Closure and Post-Closure Maintenance Cost and Operating
24 Liability.

25 And the Paragraph A-1 of those proposed

1 regulations, which are new as part of this 45-day
2 notice, would require an operator of a hazardous waste
3 facility to comply with both the financial assurance
4 regulations promulgated by the Department of Toxic
5 Substances Control, and the financial assurance
6 regulations promulgated by this Board.

7 And we believe that there's a number of
8 significant problems with respect to that duplication
9 and overlap. Probably first and foremost is, does the
10 Board really have the authority under the Public
11 Resources Code for solid waste that is placed in
12 a hazardous waste landfill?

13 I think Mr. Jones made mention of the fact
14 that solid waste once placed in a hazardous waste fill,
15 it actually becomes hazardous waste.

16 We don't contest the fact that the Board has
17 the authority to adopt regulations on the permitting,
18 dual permitting. In fact, the Legislature has spoken
19 quite clearly in Public Resources Code Section 44103
20 that provides for joint permitting process on facilities
21 that accept, facilities that accept both solid and
22 hazardous waste.

23 However, we believe the proper interpretation
24 of the Public Resources Code is that once the material
25 is accepted and then commingled with hazardous waste,

1 the entire waste mass in the disposal cell is, in fact,
2 hazardous waste.

3 In fact, the definition of hazardous waste in
4 the Public Resources Code says it means a waste or
5 combination of waste which because of its quantity,
6 concentration, physical, chemical characteristics, pose
7 a hazard.

8 So we believe very clearly that once placed in
9 a Class 1 hazardous waste disposal cell the entire mass,
10 both hazardous and solid waste that enter the facility
11 once accepted, becomes hazardous waste. And as such,
12 the closure and post-closure requirements of that cell
13 including financial assurance are solely within the
14 purview of the Department of Toxic Substances Control.

15 And so our request to this Board would be to
16 delete this particular section from your regulations and
17 rely on the authority, the clear authority of the
18 Department of Toxics to regulate the financial assurance
19 for this particular kind of activity.

20 So that's number one is, we believe that you
21 really don't have the authority to adopt regulations on
22 this kind of materials commingled with hazardous waste.

23 There's also provisions -- second concern is
24 nonduplication. The Administrative Procedures Act is
25 very clear that agencies should not duplicate

1 regulations of other agencies, unless there is a clear
2 reason to. We're not aware of what that reason would be
3 to create two duplicative and similar, but in many ways
4 different sets of requirements for financial assurance.

5 Both sets of regulations cover language on
6 trust funds, post-closure, closure, post-closure, surety
7 bonds, letters of credit, insurance, financial
8 guarantees, and so on and so forth. All of it has
9 duplicative language.

10 So number two is the nonduplication provision.

11 Number three, we have questions with respect
12 to clarity. It is virtually impossible to read these
13 two sets of regulations side by side and decide which
14 provisions would prevail. While they're written the
15 same, there's much language that is duplicative of
16 the other. There's many provisions of this regulation,
17 these regulations that are written completely
18 differently.

19 And so it really creates a confusing mass of
20 regulation when you have both the Department's
21 requirements and the Waste Board's requirements and you
22 have to sift through both sets of requirements to figure
23 out which apply to your facility. So clarity would be
24 an issue.

25 Number four is the concern that DTSC is fully

1 capable of regulating financial assurance.

2 They've regulated financial assurance at
3 facilities for 20 years. We believe they've done
4 a credible job.

5 You had some questions, for example, recently
6 about captive insurance. The Department of Toxics also
7 has similar concerns. They're reviewing captive
8 insurance that we currently use at some of our
9 facilities very closely. They haven't made a decision
10 to act. They may make a decision to act in the future.

11 We have asked DTSC to defer action until EPA,
12 which by the way is accepting comments on this very
13 issue of financial assurance through close of business
14 today in Washington, D.C. We fully expect that the
15 U.S. EPA will be giving some guidance if not rulemaking
16 clarifying some of the admittedly ambiguous provisions
17 of federal law related to captive insurance. We expect
18 those to be clarified. There may even be new standards
19 put forth or different standards put forth for the use
20 of captive insurance or even other financial assurance
21 mechanisms.

22 Our request to the Department of Toxics is
23 before you go in and make decisions, let's wait and see
24 what U.S. EPA does.

25 And finally, the concern which we have pointed

1 out in your previous rulemaking on financial assurance
2 with respect to solid waste facilities, there is
3 a question as to whether or not the Board can require
4 a captive insurance to go to the Department of
5 Insurance.

6 As I explained to you before, when you were
7 going over your financial assurance regulation for solid
8 waste facility, the Legislature has clearly handed out
9 two paths in the statute: Either you become a
10 commercial -- either you use a commercial insurance,
11 which requires licensure by the Department of Insurance;
12 or you go to the Board and there's certain criteria
13 the Board can use.

14 What you did in your regulations was require
15 not only the kind of commingling of both sets of
16 requirements. We believe the Legislature said
17 either/or.

18 To my knowledge, the OAL hasn't passed on your
19 solid waste regulations as of yet for financial
20 assurance. But it remains to see how that issue gets
21 resolved.

22 But the bottom line is today I am asking in
23 the future, if this is continued to January, that
24 the Board delete that one section related to financial
25 assurance and hazardous waste facilities. Rely on the

1 regulatory authority of DTSC to appropriately regulate
2 financial assurance at those hazardous waste facilities
3 and also accept some small amount of solid waste.

4 And do not try to create a duplicative set of
5 requirements in your own regulations on this matter.

6 Now, there is some additional issues that
7 I understand others may be bringing forward. And that
8 is currently your proposing regulations would create
9 a registration permit for facilities that also accept
10 some amount of solid waste.

11 I believe there's going to be a proposal laid
12 on the table which if you accept more than 100 tons
13 per day of solid waste, certain parties may be
14 requesting that that registration permit become a full
15 solid waste permit. We would object to that, but we
16 would be willing to enter into discussions with both the
17 Board and other stakeholders as an appropriate way to
18 figure out what would be the transition point from a
19 registration permit to a full permit. A simple
20 100-ton-per-day doesn't work for us.

21 A perfect example is -- two examples are:
22 Mining waste, which in many cases look like hazardous
23 waste, and they may come in at greater amounts than
24 100 tons per day. And if you're triggered with just
25 simply 100 tons per day, that doesn't make any sense.

1 Refinery waste and petroleum production waste
2 was also looked at debris like a hazardous waste, but
3 are actually eligible for certain exemptions. We
4 believe that those wastes should similarly not be
5 subject to an artificial cap.

6 But we will be more than pleased to enter into
7 discussion with the Board and the stakeholders to come
8 up with a common ground on this issue. I know your
9 concern is that some of these hazardous waste facilities
10 may ultimately turn into solid waste facilities.
11 I'm not sure that's -- I mean, the concern is these are
12 always going to be hazardous waste facilities. They're
13 never going to be regulated into anything other than
14 a hazardous waste facility. But we would again be
15 willing to have ongoing discussions on this area to try
16 to find some accommodation, if that would meet your
17 desires.

18 So I would hope that I would be able to
19 provide comments and testimony to you again in January,
20 if this issue does come back before the Board. I would
21 appreciate that you allow my comments to be submitted in
22 writing by close of business tomorrow, an opportunity to
23 continue dialogue with the staff and the Board members
24 to try to find a way.

25 But again, I encourage you not to adopt the

1 regulations that would create this duplicate set of
2 requirements between yourselves and the Department of
3 Toxics with respect to financial assurance.

4 Thank you very much.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you,
6 Mr. White.

7 BOARD MEMBER PAPARIAN: Madam Chair.

8 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

9 BOARD MEMBER PAPARIAN: Can I ask, Mr. White.

10 MR. WHITE: Sure.

11 BOARD MEMBER PAPARIAN: Just can you give me
12 a ballpark figure of about, say over a one-year time
13 percentage wise about how much solid waste goes into
14 one of the hazardous waste cells?

15 MR. WHITE: I'd be happy to do my best.

16 It varies. Typically it's been as low as
17 5 percent or less, and it sometimes will go as high as
18 10 percent. It typically depends on whether or not
19 there's a remediation project going on. This could be
20 contaminated soils, typically. Usually the biggest
21 contaminated media projects come in -- like there's
22 two examples I mentioned -- are from either petroleum
23 production facilities or petroleum refining facilities
24 or mining operations.

25 BOARD MEMBER PAPARIAN: Typically it doesn't

1 go over 10 percent?

2 MR. WHITE: It may go over 10 percent in some
3 years when you get a big job, big cleanup job that
4 involves those kinds of mining petroleum reduction.
5 But it's the kind of material that you wouldn't want to
6 see going into a solid waste landfill. You would want
7 to see it go into the most protected facilities
8 available.

9 In terms of like C&D-type materials that might
10 fall off and not be hazardous, certainly well below
11 5 percent. Other kinds of materials that aren't
12 refinery, that aren't petroleum, that aren't mining
13 would be well less than 10 percent. So I mean, I could
14 live with a 5 or 10, 5-percent cap on C&D, a 10-percent
15 cap on other kinds of materials, but not if it included
16 mining or petroleum refining or petroleum reduction
17 waste. Because I would think the Board, you would want
18 to see these materials go and not create any artificial
19 limit that would prevent these from being disposed of in
20 the most protected, double-lined, double-contained
21 facilities available.

22 I am telling you it varies. Some years
23 it will be way less than 5 percent, others it will be
24 between 10 and 15 percent. It will vary all over the
25 map, depending on whether one of these big cleanup jobs

1 from a Chevron or Exxon or a mining operation,

2 for example, may come forward.

3 BOARD MEMBER PAPARIAN: Thank you.

4 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

5 BOARD MEMBER EATON: Mr. White.

6 And also and the staff can join in as well --

7 I just want to kind of get some clarity here as well.

8 When the waste that's not subject to DTSC's regulation

9 comes through the gate, the waste that we're talking

10 about which would be the subject of these regulations --

11 MR. WHITE: Yes.

12 BOARD MEMBER EATON: -- the Board does receive

13 a fee for that, correct?

14 MR. WHITE: Absolutely. You receive your

15 \$1.34 per ton, and you get your quarterly report

16 counting it as solid waste disposal.

17 BOARD MEMBER EATON: And then that waste may

18 or may not be commingled with the other material;

19 is that correct? In the cell?

20 MR. WHITE: If it goes into a Class 1 cell, it

21 becomes commingled with the hazardous waste.

22 There will never be ever an attempt to pull

23 any of that material back out and call it anything

24 other than hazardous waste. I can't imagine the DTSC

25 would ever allow any material ever to come out of that

1 Class 1 cell and be called anything other than the
2 hazardous waste.

3 We think that's really the structure of the
4 statute when hazardous waste is commingled with solid
5 waste, the result in mixture becomes hazardous waste.
6 And that's pretty -- that's pretty clear.

7 And I think your own staff, for example,
8 doesn't contemplate reviewing closure plans or
9 post-closure documents and any other kind of things.
10 So why would you want to create a duplicate requirement
11 for financial assurance?

12 BOARD MEMBER EATON: And our staff would not
13 dispute that, correct? That once it's commingled that
14 by virtue of it having been commingled within that
15 particular cell.

16 MR. DE BIE: I think that's a logical
17 conclusion.

18 I might add that some have argued that your
19 typical MSW landfill has a certain portion of hazardous
20 waste that you wouldn't necessarily want to move
21 around. But, you know, it's how you view the thing.

22 I will call the Board's attention to,
23 you know, the statute that says -- that Mr. White
24 referred to indirectly is that, you know, if you're
25 taking in the two waste types you need two permits.

1 And the argument that somehow by mixing them in the same
2 cell you get past the statute has been discussed in
3 front of the Board, and the regs were written because
4 the Board at that time felt that two permits were
5 required.

6 And if I might indulge a little bit about
7 the question of duplication, if you read the reg it says
8 that we're deferring to Toxics for the actual financial
9 assurance requirements. And all we're asking is that
10 that mechanism that's chosen by Toxics also lines up
11 with the Board's requirement.

12 So we're not adding a whole new set of
13 requirements. We're just saying the one that Toxics has
14 already approved needs to also line up with our
15 requirements.

16 And Mr. White's correct that very much they
17 are very, very, very similar in form and content.

18 BOARD MEMBER EATON: The reason why I ask is
19 because I think part of this is going to be
20 determinative. You know me, I'm not a particular big
21 fan of captive insurance. But if then the regulation
22 that when, if it were to ever come out of the hold is
23 under the purview of DTSC, they have not yet made a
24 decision, is that correct, on captive on noncaptive?

25 MR. DE BIE: Nothing official that I'm aware

1 of, no.

2 BOARD MEMBER EATON: Right. So -- and I guess
3 that's kind of where I'm getting stumbled. As much as
4 I don't want to backtrack against captive, because
5 I think it's not a very good mechanism. But I do want
6 to at least give some consideration to DTSC and the fact
7 that if it's in the hold and it's really up to them
8 until they make a determination, as long as that
9 determination is not like two years or three years or
10 four years from now, you know, that is there
11 a way that we can see what they might do. So that if
12 there is a situation wherein they do not agree with, or
13 they share their agreement with us that captive may not
14 be a proper mechanism, that we would be able to
15 formulate some consistent financial assurances for that
16 particular matter that has been commingled?

17 I mean, is that -- but I don't want it to go
18 on for two years. I'm just thinking, you know, if we
19 know that. The thought perhaps, that's staff. I know
20 Mr. White probably would say, Sure, why not, but, you
21 know.

22 MR. WHITE: Sure, why not.

23 MR. DE BIE: I think certainly that might be
24 an option to consider. I think -- I'm trying to mouth
25 with words in the mouth of the Board from previous

1 discussions, but there was some concern about the fact
2 that there is a solid waste facility permit associated
3 with this facility. If for some reason there were
4 issues with the financial assurance mechanism approved
5 by Toxics and it wasn't adequate, you know, who else has
6 a permit for that facility? And it would be looking at
7 the LEA and Waste Board to see what sort of assurances
8 we had to deal with the issues at that site.

9 So I know that there were concerns about that
10 in the past from the Board. And, you know, the Board's
11 decision on what is adequate financial assurances for
12 solid waste facilities, it was quite clear and placed in
13 regulation, so...

14 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

15 BOARD MEMBER JONES: Thanks, Madam Chair.

16 Just a couple of, couple of issues. I think
17 it's -- it amazes me that we've got language in here and
18 testimony that says DTSC can do any kind of closure it
19 wants, as long as it agrees with what the Board wants.
20 And the Board has -- and I am not retracting from
21 this -- the Board has not deemed that we want to deal
22 with captive insurance. I'm not going to change my
23 vote. That was a 6/0 vote. That's not the issue.

24 But I think in saying that, you know, we're
25 going to let DTSC do whatever it wants, so long as it

1 agrees with us is exactly why the Board back in May
2 deferred to DTSC because we felt we had a subordinate
3 permit to DTSC. I think testimony was offered that day
4 that the standards were considerably higher for
5 hazardous waste facilities' day-to-day operations than
6 any municipal solid waste landfill.

7 And I think through that whole thing -- now,
8 if we're in this point, which amazes me, but if we're
9 here because we issued a registration tier permit and
10 because we issued a registration tier permit, staff
11 feels that with that permit has to have a Board/staff
12 closure policy assigned where a DTSC policy is already
13 obviously the lead, then I, then I apologize to staff.
14 I made a mistake. Maybe our direction wasn't accurate
15 enough at the last Board meeting.

16 But it certainly seemed to me that all the
17 Board members agreed there just be a registration tier.
18 And all the Board members agreed that DTSC was in
19 the lead and ours was subordinate. And all the Board
20 members agreed that if the thing was going to blow up it
21 was going to blow up on DTSC not on us, because we had
22 no responsibilities for closure or post-closure. We
23 don't get closure plans, we don't get post-closure
24 plans.

25 So I may be mistaken that we didn't give as

1 explicit direction as was needed in that case. And for
2 that, I apologize. Because I certainly thought that we
3 had said go forward with this, everything except the
4 financial assurances piece because DTSCs already had
5 it.

6 DTSC is going to make a finding, U.S. EPA is
7 going to make a finding. But one other issue we need
8 to be thinking about is we've got an insurance industry
9 throughout the United States that has absolutely been
10 hammered, pummeled by attacks on the United States of
11 9/11. We're not even sure how much of this insurance
12 availability is even going to be out there. That's not,
13 that's not our concern because we don't allow it for any
14 municipal solid waste landfills.

15 But it is probably figured into the thinking
16 of Ed Lowry and those folks at DTSC who may have chosen
17 to keep, to continue using captive insurance until
18 there's a little bit of breath of air over there.
19 I don't know. I don't want to get into his head, but
20 he has made -- I know he has said that they are going to
21 continue to keep looking at it.

22 You know, I'd like to see if these regs are
23 going to go out -- and don't misunderstand what I'm
24 saying. I am not for captive insurance, but I am for
25 honoring another sister agency and its responsibility

1 over a hazardous waste facility. And if they deem it
2 okay, I don't have a problem with it.

3 But I think if that goes out, then we do need
4 to take this language out that talks about DTSC having
5 to mirror ours. And but maybe we need to put in there
6 that the DTSC has responsibility for closure,
7 post-closure, period. I mean, not that it meets our
8 standard, not that it does any of these other trick
9 Boards, just that that's, that they have to meet that.
10 And because our permit allows them to deliver waste to
11 the facility. That's what ours allows them to do.
12 But it sets no standards for how to dispose of the
13 material. And we need understand there's a clear
14 differential there with the operating requirements of a
15 normal landfill.

16 So when the time is right, Madam Chair, and
17 after you have had your druthers, but I would like staff
18 or somebody to think about the idea of at least
19 including in there that DTSC has the responsibility for
20 financial assurances for the facility. Because I don't
21 think we can be silent to it.

22 BOARD CHAIR MOULTON-PATTERSON: We will hear
23 our last speaker, then we'll come back to you, Mr. Jones.

24 Evan Edgar?

25 MR. EDGAR: Good afternoon Board members and

1 Chairperson.

2 My name is Evan Edgar from the California
3 Refuse Removal Council.

4 I have a letter of record I am submitting
5 dated December 10th. And basically, we could supporting
6 putting this over to take care of these issues.

7 The two issues that I have set forth was the
8 need to have a full permit of over 100 tons a day.
9 And the reason I am saying is that we're concerned these
10 facilities can turn into regional disposal facilities.

11 What Chuck said today was that a small amount
12 of waste could be going into these hazardous waste
13 facilities, an incidental amount of waste, which is
14 about 100 tons a day. That's localized, that's
15 acceptable. But with the amount of hazardous waste
16 minimized in California and the growth of these regional
17 disposal sites, we feel, as an equity position, to have
18 a full permit for these facilities.

19 The people I represent are heavily invested in
20 C&D, construction demolition sites. There are three
21 sites in California that can take some of this
22 nonhazardous C&D and dispose of it, these facilities.

23 We were supportive of that emergency
24 regulations, because up until the June 2000 people were
25 able to take this type of nonhazardous C&D wastes to

1 these facilities Class 1 without a fee, without a
2 permit, and potentially get an AB 939 diversion by
3 default. So the stopgap measure CRC supported in
4 emergency regs has been on record for a year now with a
5 need to have a full permit from going over 100 tons a
6 day, because these facilities are and will be regional
7 disposal sites.

8 And the second issue is having reporting by
9 the quarter versus annual reporting. How these
10 facilities report once a year in March is not adequate.
11 I feel that we need the same equity position on Class 2
12 and Class 3 facilities, but we have a disposal reporting
13 system every quarter versus once a year.

14 I believe that Chuck has a good points in
15 working out some type of caps percentages, 5-percent
16 cap, 10-percent cap, exclude mining waste. I think
17 there's room to move on that.

18 But my concerns are the safety clean
19 facilities that have demonstrated the ability to take
20 lots of waste and material (inaudible) that is
21 recyclable C&D.

22 Those are my concerns today.

23 Thank you.

24 SENATOR ROBERTI: Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Senator.

1 SENATOR ROBERTI: I think the industry makes
2 a reasonable case as far as duplication. Our honoring,
3 as Mr. Jones speaks, the subordinate, our subordinate
4 position to Toxics. What concerns me is we make an
5 exception in the area, disposal of waste products or C&D
6 under our jurisdiction of a toxic facility that the
7 various exceptions don't become cumulative, and then
8 suddenly the toxic facility's really being treated as
9 a landfill.

10 It's just that the exceptions work in such
11 a way that we can maybe reach 20, 25 percent.
12 I'm surmising. So a reasonably low number, and I don't
13 think this Board wants to be in the position of putting
14 an industry through unnecessary hoops and unnecessary
15 permits, because that is a problem, too.

16 So a uniformly low number that is not
17 cumulative -- and I look for the staff to help us on
18 that -- could have my vote simply because the
19 duplication of efforts generally would be quite
20 unnecessary.

21 I don't have a number but it would have to be
22 low. I'd look for some help and some guidance of staff
23 on this.

24 MR. DE BIE: Just some insights on discussions
25 with Toxics. We asked what if this facility was to take

1 in 100 percent solid waste and no hazardous waste, would
2 that affect the operating requirements or anything
3 Toxics requires, and they said it would have no affect
4 at all. They wouldn't see any changes needed to do
5 that.

6 So staff didn't see any value that would be
7 added from a full solid waste facility permit. That's
8 why registration was proposed. So we would, staff would
9 neat to grapple with what we were trying to achieve by
10 moving a facility from registration to full. We don't
11 see any additional requirements we would layer in.
12 The process would certainly be different, the Board
13 would need to concur on the permit before it's issued,
14 but we would be at a loss to see what --

15 SENATOR ROBERTI: Staff, in essence, is saying
16 there is no reason for a differential as far as quantity
17 of the waste that is disposed of?

18 MR. DE BIE: At this moment in time we've had
19 discussions with Toxics about what we could add to
20 the facility in terms of additional protection from
21 utilizing our requirements of this permit.

22 SENATOR ROBERTI: Well, let me give you the
23 other thing that maybe concerns me more that is
24 related. And that is that petroleum waste is not
25 considered toxic, am I right? I think I'm right on

1 that.

2 MR. DE BIE: At some levels, yes.

3 SENATOR ROBERTI: At some levels. And if
4 petroleum waste is disposed of in a toxic -- what do you
5 call it toxic filled?

6 MR. WHITE: Hazardous waste.

7 SENATOR ROBERTI: Hazardous waste disposal
8 site, yeah.

9 I would view the regulation from DTSC as being
10 minimal because that's not in their jurisdiction. And
11 we will have in effect given a pass, because though
12 we're not saying it doesn't come under our
13 jurisdiction.

14 So that's my main concern when I talk about
15 cumulative, and that is petroleum waste products added
16 on top of C&D would cause me concern.

17 MR. WHITE: If I may just for a second.

18 SENATOR ROBERTI: Please.

19 MR. WHITE: Everything that goes into
20 a hazardous waste cell the Department will continue to
21 regulate that hazardous waste cell as a hazardous waste
22 disposal site, regardless of whether that takes 100
23 percent hazardous waste, 90 percent, or only 10 percent
24 hazardous waste. The Department of Toxics will still
25 continue to regulate and impose the full burden of DTSC

1 hazardous waste regulations on that Class 1 cell,
2 so there will never be a --

3 SENATOR ROBERTI: So a petroleum waste
4 product, whatever it would be considered.

5 MR. WHITE: Contaminated soils, example,
6 sure.

7 SENATOR ROBERTI: Contaminated soils would
8 then be treated as some noxious chemical, once it is in
9 the hazardous waste site.

10 MR. WHITE: It wouldn't be subject to the same
11 characterization standards necessarily. But once it
12 goes into the hole in the ground, it would be managed
13 just as if, and regulated just as if it's a hazardous
14 waste. The entire waste mass, the entire facility would
15 be regulated as a hazardous waste facility. Probably
16 not back off from viewing everything within that Class 1
17 cell as was in their jurisdiction and purview to
18 regulate that disposal site.

19 SENATOR ROBERTI: Okay. Assuming
20 Mr. deBie's -- not assuming, with Mr. deBie's analysis,
21 what happens to tipping fees, then assuming that the
22 hazardous waste site takes 100-percent, 95-percent
23 material, whatever sort that comes normally under our
24 jurisdiction help from this agency, how would these regs
25 be handled?

1 MR. DE BIE: That material would be counted as
2 disposal, would be reported as disposed and the fee --

3 SENATOR ROBERTI: As far as our numbers are
4 concerned, too?

5 MR. DE BIE: Yes. That waste stream is within
6 our jurisdiction, because we have a permit for the
7 facility as required by statute. It would be fully
8 covered. We would not lose our authority or
9 responsibility over that waste.

10 SENATOR ROBERTI: So for two points and our
11 counting of our numbers, and two for the receipt of our
12 tipping fee. You don't view this as causing any
13 change?

14 MR. DE BIE: No. And the level of permit
15 doesn't factor into that. The only requirement is that
16 the facility have a solid waste facility permit and
17 registration qualifies as the standardized or full, so.

18 SENATOR ROBERTI: Who would be on site to
19 handle the tipping fee?

20 MR. DE BIE: Typically a fee is charged by the
21 operator. Part of that includes the State mandated fee,
22 and then that is paid through --

23 SENATOR ROBERTI: So in this case the operator
24 is a toxic, hazardous waste facility.

25 MR. DE BIE: They would still have to report

1 to DOE and pay the fee just as a nonhazardous solid
2 waste facility.

3 MR. WHITE: The DOE was just out at our
4 Kettleman Hills Facility, for example, this last month.

5 MR. DE BIE: They were?

6 MR. WHITE: And they were looking at both
7 the hazardous waste fees that we were collecting and
8 passing on to DOE for disposal of hazardous waste, as
9 well as the 1.34 per ton, so that's a much smaller
10 fraction.

11 SENATOR ROBERTI: I understand we're putting
12 this over, but you've answered most of my questions.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you.

14 Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Thank you,
16 Madam Chair.

17 Despite the best efforts of Mr. White and his
18 colleagues and representatives from Vermont who came
19 a few months ago, I remain unsympathetic to captive
20 insurance. But I am sympathetic to some of the
21 arguments that are being made here today with regards
22 to, you know, whether, whether we should force something
23 on a facility when the Department of Toxics really has
24 the primary responsibilities.

25 If I were at Department of Toxics I might be

1 doing things differently than they are, I don't know.

2 But that's not where I sit. I sit with the Waste
3 Board.

4 I do, however, have a concern that if we allow
5 the Department of Toxics financial assurance
6 requirements to be the operative requirements, that we
7 not get in a situation where an increasing amount of
8 solid waste goes into this facility, or comparable
9 facility elsewhere; or that we wind up creating a
10 loophole where to get out of financial assurance
11 requirements that we have, that somebody starts sending
12 a lot of solid waste to a hazardous waste facility.

13 So I'd like to explore some threshold.
14 You know, we heard that somewhere around 10 percent of
15 the waste may be a solid waste going into this
16 facility. Maybe including mining wastes, maybe not
17 including mining wastes. But in any event, I would like
18 to see some threshold so that we can have some assurance
19 that it remains a relatively small amount of solid waste
20 going into the facility that we're allowing to get out
21 of our financial assurance requirements.

22 MR. WHITE: I would certainly be pleased to
23 work with you and the Board members and the staff to
24 come up.

25 I did want to make mention of the fact we're

1 not talking about putrescible municipal solid waste.

2 We can't take any of that whatsoever, so any of the
3 materials that are typically generated by commercial
4 buildings like this, cities like this, you just simply
5 can't take it. The only kind of material that can go
6 into a Class 1 cell would be those types of
7 nonputrescible industrial waste.

8 Generally, I don't think you even want
9 to see in your Class 2 or 3 landfills things like
10 petroleum-contaminated soils, things like
11 heavy-metal-contaminated mining waste. You really want
12 to keep that material out.

13 So we'd be happy to work with you. I think we
14 can probably come up with something workable. But it's
15 not going to be just an easy simple number because we
16 need to take account, I hope you would agree, petroleum
17 waste and mining waste which can be much, much, because
18 of a remediation job it can be a large amount on any one
19 given day, month, or year.

20 BOARD MEMBER PAPARIAN: I think hopefully over
21 a six-month or one-year time frame the percentages
22 should work out properly, or else the facility is
23 starting to look more like a solid waste facility than
24 a hazardous waste facility.

25 I understand on a daily basis or monthly basis

1 if you have a cleanup going on, a lot of stuff coming in
2 over, you know, a several-day or week period; but over
3 a year period hopefully to remain on the percentage we
4 might suggest for our purposes.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you.

6 Mr. Edgar, were you finished?

7 Okay. Thank you.

8 Mr. Medina.

9 BOARD MEMBER MEDINA: Madam Chair, I just had
10 one comment that has to do with the recordkeeping
11 requirements. And I support having a quarterly
12 reporting of all nonhazardous, nonputrescible industrial
13 solid waste, instead of just submitting an annual report
14 each year and placing disposal reporting on the same
15 level as that required at Class 2 and Class 3 facilities
16 for the same type of waste stream.

17 MR. WHITE: I'd have to consult with staff on
18 that, but I think the annual reporting which is
19 currently in the regulation, just talks about a separate
20 annual reporting that is separate and distinct from the
21 disposal reporting system which we have to continue to
22 do on, I think it's on a quarterly basis.

23 So this is actually an additional annual
24 reporting in addition to the quarterly reporting which
25 we also have to comply with because we're taking in some

1 small amount -- some amount of solid waste.

2 So I would ask you not to increase this annual
3 report to a quarterly report, because I think we're
4 already doing a quarterly report because the disposal
5 reporting system, which also apply to these Class 1
6 facilities (inaudible) were also doing the quarterly
7 reporting.

8 So I think that would be duplicative. And
9 correct me if I'm wrong, but I think that's correct.

10 MR. DE BIE: You're correct, Mr. White.

11 As a permitted facility landfill, they would
12 have to participate in the disposal reporting system and
13 that I believe is quarterly.

14 This isn't an additional reporting to the EA,
15 the LEA. They're to keep tonnage records current
16 up-to-the-month and available to the EA, and then once
17 a year they are to give a summary report to the EA.

18 And that's, actually indicates March 1st and
19 that coincides with their reporting to Toxics, I believe
20 is why we actually picked a date certain. Because they
21 have to report tonnage to Toxics at the same time.
22 We said, you know, share that information with EA at
23 the same time.

24 BOARD MEMBER PAPARIAN: Thank you.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

1 Mr. Jones.

2 BOARD MEMBER JONES: Thanks, Madam Chair.

3 Madam Chair, there may be a way to get these
4 things out of here. I agree with Mr. Paparian and
5 Mr. Medina. I think that we need to get a sense of the
6 types of tonnage. We've heard 5 percent, we've heard
7 10 percent. We've heard a lot of things.

8 Mr. White's just said there is a quarterly
9 requirement. And I actually think it's a monthly
10 requirement in the regulation package, but -- and it
11 says "by waste types," so in the cells by waste types.

12 And we've all got an issue with the, you know,
13 what is the finding going to be by DTSC in six months,
14 a year, whatever, on how it plans on treating captive
15 insurance? I'd like to see this reg package go out
16 without Section 17371. That could just say that DTSC
17 has got the ultimate responsibility for closure,
18 post-closure. That we bring this, that we send this out
19 for comment -- or however we're going to go through the
20 timing issue -- but that we put a requirements whether
21 it's in this reg, or however we do these things -- and
22 I have to use the English language accurately -- that
23 let's us get in 12 months a report from the operator of
24 not only the Kettleman Facility, but of Buttonwillow
25 and -- what's the other one besides Buttonwillow?

1 UNIDENTIFIED SPEAKER: Imperial County.

2 BOARD MEMBER JONES: Yeah.

3 Those three facilities that all needed this,
4 to tell us how much of the C&D, how much of the
5 contaminated, how much of this, so that we have an idea
6 over a one-year period of time -- it can be broken into
7 months -- as to what we're really talking about in
8 relationship to the overall activity at the site.

9 And I don't know if that works, Mr. Paparian,
10 but that might be a way for us to quantify or at least
11 to set guidelines. Once we know the numbers, you know,
12 once we see those numbers over a one-year period, to see
13 if we do need to, in fact, reopen these and have
14 thresholds.

15 And I think the other thing that we need to do
16 is we need to have the determination from DTSC as to
17 what their treatment's going to be. And I think that,
18 that's reasonable to say that's probably going to happen
19 in the next year to 15 months, 18 months at the
20 outside.

21 But I'd like to see this reg package go out
22 with the Section 17371 financial assurance, lines on
23 page 10-11, line 1 through line 7 basically deleted,
24 but to put in the language that says that financial
25 assurances -- and I'm not sure exactly what the right

1 language is -- but that financial assurance
2 responsibility for the operator will be controlled by
3 DTSC or will be done to DTSC's requirements.

4 That's, that's --

5 BOARD CHAIR MOULTON-PATTERSON: Is that
6 a motion?

7 BOARD MEMBER JONES: That's my motion.

8 BOARD MEMBER PAPARIAN: Madam Chair, just
9 as a --

10 BOARD CHAIR MOULTON-PATTERSON: Clarification.

11 BOARD MEMBER PAPARIAN: -- clarification
12 here.

13 Given that the comment deadline isn't until
14 tomorrow, I'm not sure that we should be making
15 modifications to this -- making actual modifications of
16 motions to what's before us. Maybe we should check with
17 our legal counsel about that.

18 MR. LEARY: If I could suggest a possible way
19 of addressing these potential changes.

20 We can, we'll note the suggested changes and
21 look for the Board for direction on whether there's
22 agreement that those are the kinds of changes that
23 should be made. The comment period will close tomorrow
24 at 5:00 and we'll have Mr. White's written comments.
25 Staff will have that available to us as well as

1 Mr. Edgar's comments.

2 We can bring back a version of the regs that
3 reflect the comments that we've heard today during
4 public testimony from the Board and others, as well as
5 written comments which suggested redraft to the regs in
6 January, and ask for a 15-day comment period on those
7 particular changes. And then bring it back in February
8 for Board approval.

9 BOARD CHAIR MOULTON-PATTERSON: Okay. So we
10 just give direction?

11 MS. NAUMAN: You can just give direction to us
12 now from the the whole Board. And then again tomorrow
13 morning ask for any comments.

14 BOARD MEMBER JONES: I guess I want to know
15 from the six board members, does anybody have issue with
16 the direction that I'm offering, coming from me, can we
17 support that? Can the six of us support that, that
18 language? Because clearly it's not always clear,
19 I guess.

20 BOARD MEMBER MEDINA: I personally don't have
21 a problem with it.

22 BOARD CHAIR MOULTON-PATTERSON: I'm fine with
23 it.

24 BOARD MEMBER PAPARIAN: Just to make sure
25 I understand, we would come back at some point next year

1 with information about the percentages of waste?

2 BOARD MEMBER JONES: Absolutely.

3 BOARD MEMBER PAPARIAN: And decide whether
4 we need to review that issue?

5 BOARD MEMBER JONES: And also to get
6 a determination from DTSC on how they're going to deal
7 with the others.

8 But what I'm saying is today to remove that
9 Section 17371 and only include that DTSC will have the
10 responsibility for closure and post-closure mechanisms,
11 that there's no tie to us.

12 BOARD MEMBER PAPARIAN: I am comfortable with
13 that.

14 BOARD MEMBER JONES: Senator?

15 SENATOR ROBERTI: I certainly want to restrict
16 duplicative effort. But I am trying to think how much
17 this is going to restrict our own jurisdiction. And
18 I'm fearful -- maybe somebody can assuage my fears --
19 that if some hazardous waste is disposal sites are
20 taking in more than 50 percent or some high number of
21 nonhazardous waste. We will end up doing what we did
22 with the Water Board and in effect turned over our
23 jurisdiction to them. In areas where there was a, in
24 areas where there was a conflict.

25 So I appreciate Mr. White's points. I mean,

1 we certainly don't want to force where we are a minimal
2 player with, as Mr. Jones says, a subordinate permit
3 process, extra red tape. But I don't want to ban our
4 jurisdiction either, and some of the testimony I have
5 heard is that this can go up to, this could go up to
6 100 percent. Mr. deBie indicated the possibility. It's
7 probably theoretical but still it's
8 a possibility, so...

9 BOARD MEMBER JONES: Senator.

10 SENATOR ROBERTI: Yes.

11 BOARD MEMBER JONES: Not to interrupt, the
12 thing that I had asked about that would come back in
13 a year with the actual breakdowns of tonnages, that
14 would allow us to know more than anecdotally but
15 actually what those tonnages are.

16 SENATOR ROBERTI: That helps.

17 BOARD MEMBER JONES: I clearly don't want to
18 see any of these facilities turned into CB sites.

19 SENATOR ROBERTI: Yes. I appreciate and
20 understand that. And what you're suggesting certainly
21 helps. But when I came here this afternoon I thought on
22 this item we were talking about incidental nonhazardous
23 waste. And frankly, Mr. deBie's comments sort of gave
24 me what a staff person has to do, and that is to give us
25 a full, the full agenda. And it looks like it could be

1 more. So that being the case, it makes me hesitant to
2 do what I would like to do after -- I met with Mr. White
3 and he makes a strong case.

4 But right now, in my own mind, just coming
5 back in the year isn't good enough. For my vote I want
6 to see a number on it. And I don't have, and I don't
7 have a clue what that number should be, because nobody
8 seems to know really how much is being taken in.
9 But I think there has to be a number on it, otherwise
10 I'm afraid this board abandons jurisdiction. Once
11 abandoned hard to, hard to reassert.

12 MR. DE BIE: I hate to have my statements be
13 the linchpin on your decision, Senator. So let me try
14 to clarify.

15 I was indicating when I spoke about
16 100 percent, is that the Department of Toxic Substance
17 Control would still view this as a hazardous waste site,
18 even if it was taking 100 percent of nonhazardous solid
19 waste.

20 SENATOR ROBERTI: Okay.

21 MR. DE BIE: I wanted to also indicate that we
22 had two sites operating for a number of months under
23 a registration permit with these requirements and
24 emergency regs, and they were to be reporting tonnages
25 to the EA.

1 So I think, in theory at least -- and I would
2 have to verify this -- but we should be able to get
3 tonnages from maybe the last six months and bring that
4 to the Board in January as a snapshot of what occurred
5 during the emergency regs.

6 I will also indicate we will need good
7 cooperation from the facility operators in doing
8 a year-long survey, because of the issue we discovered
9 when we looked at identifying waste types. They have
10 a very different way of classifying waste types than we
11 do, like in waste-generation studies and that sort of
12 thing. So there's going to be some time and effort
13 needed on staff's side as well as the facility
14 operator's side to agree on how we're going to identify
15 waste types, so that we can report back to the Board on
16 volumes of C&D versus other kinds of waste types.

17 We need to agree on definitions, and then be
18 able to do that over a year period. But I think it is
19 feasible.

20 SENATOR ROBERTI: Well, if they can come back
21 in January, my own preference would be then, speaking as
22 somebody who wants to vote for this, but I don't want to
23 abandon jurisdiction either. I want to vote for this in
24 the context that it's essentially incidental or even
25 maybe a little bit more than incidental, but not a

1 significant part of what's taken in. That we're not
2 abandoning jurisdiction.

3 If we could have this by January --

4 BOARD MEMBER JONES: Have what?

5 SENATOR ROBERTI: Information as to what the
6 tonnage of nonhazardous waste.

7 MR. DE BIE: We won't be able to give you
8 12 months worth of data, but we can give you --

9 SENATOR ROBERTI: Can you give us six months
10 of data?

11 MR. DE BIE: -- potentially six months of two
12 facilities.

13 BOARD MEMBER JONES: But not from Kettleman?

14 MR. DE BIE: Kettleman had a registration
15 permit.

16 BOARD MEMBER JONES: So it's Kettleman and
17 it's Buttonwillow?

18 (Inaudible.)

19 MR. DE BIE: Westmoreland did not get a
20 registration. They decided not to take any solid waste.

21 BOARD MEMBER JONES: So that's two of them?

22 MR. DE BIE: Yes.

23 SENATOR ROBERTI: I would prefer to hear this
24 in January. And not wanting to unduly delay a decent
25 case that has been made, but --

1 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

2 BOARD MEMBER JONES: Senator, I think, are
3 you -- on the financial-assurance piece, are you okay
4 with what we've come up with there? That DTSC is going
5 to take the lead?

6 Five of us have said yeah.

7 SENATOR ROBERTI: Yes, the DTSC takes
8 the lead.

9 BOARD MEMBER JONES: Right.

10 SENATOR ROBERTI: I don't have a problem with
11 that.

12 BOARD MEMBER JONES: The reason I ask is --

13 SENATOR ROBERTI: My problem -- and there
14 probably is overlap here -- is with captive, the
15 suspension of our role on captive insurance.

16 BOARD MEMBER JONES: Right. But we're not
17 suspending, we're just being subordinate to DTSC.

18 SENATOR ROBERTI: I understand that.
19 But the suspension of our rule on Captive Insurance,
20 where the hazardous waste facility is taking in more
21 than the incidental or small amount of --

22 BOARD MEMBER JONES: I guess what I'm trying
23 to say is that staff has come back to us with
24 information that a lot of us didn't think was even going
25 to be in this. So I just don't feel good -- sorry,

1 Julie, but that's how I see it -- and I am not one to
2 bash the staff.

3 And I want to make sure that staff knows that
4 what's coming back doesn't have this. Because five of
5 us have said that it doesn't, and one I think kind of
6 wants not to say it. But we need to get the numbers,
7 only because we've had this discussion like five times
8 and we've got to move on. So all I am trying to do is
9 move it on and not get, you know, hit again with that
10 this is what they thought Board direction was. So I'm
11 trying to clarify the Board direction.

12 BOARD CHAIR MOULTON-PATTERSON: Why don't you
13 go ahead and provide Senator Roberti with a six-month
14 snapshot or whatever?

15 MS. NAUMAN: We'll provide it to all of you.

16 BOARD CHAIR MOULTON-PATTERSON: Yeah, to all
17 of us.

18 And but yet we can move on with this, since
19 I think it's majority direction.

20 MS. NAUMAN: All we're asking for is some
21 discussion as you've just had. And I think the
22 direction is very clear.

23 And again, so we're back in January.

24 BOARD MEMBER JONES: We'll have this stuff in
25 January and we're looking at this in 12 months?

1 MS. NAUMAN: Right.

2 BOARD CHAIR MOULTON-PATTERSON: Ms. Tobias.

3 MS. TOBIAS: I just want to clarify that

4 I think the way the procedure would work is I think the

5 Board could take evidence of financial assurances from

6 somebody else such as DTSC. What would be off the

7 DTSC. The Board will still have to review it under the

8 statute. It says that that does have to be submitted to

9 the Board.

10 I just want to make clear to a certain extent

11 we're really not saying that it's a subordinate permit

12 nor are we abandoning our jurisdiction. What we'd

13 basically be saying is we will use the financial

14 assurances provided to DTSC as the financial assurance

15 appropriate for this.

16 BOARD CHAIR MOULTON-PATTERSON: So do you have

17 a problem with moving on, Senator?

18 SENATOR ROBERTI: No, I don't have a problem

19 with moving on, as long as my own position I have been

20 (inaudible). No, I would rather have the numbers

21 before, before I gave an assent. I guess it doesn't

22 take a formal vote. And I say that wanting the

23 stakeholders to know that I am not opposed to this

24 course of action, if it would prove to be an incidental

25 amount only.

1 But one of the first things I was faced with
2 when I came on the Board was -- and not the fault of any
3 member of this Board -- was our abandonment through
4 legislation of any jurisdiction in water. Leakage into
5 water from landfills essentially giving it totally to
6 the Water Board, even though we had some sort of
7 advisory capacity.

8 And frankly, I think this Board is more
9 vigilant than the other agencies, with all due respect
10 to our other agencies, in protecting the environment.
11 And for that reason, I'd rather not see a change in any
12 significant way.

13 So I'm registering a, a nonassent, but a
14 friendly nonassent.

15 BOARD CHAIR MOULTON-PATTERSON: So we'll move
16 on.

17 And the next item is Number 13. And we have
18 one speaker.

19 MS. NAUMAN: Item 13 is Consideration of
20 Options Regarding Revisions To Regulations For The Solid
21 Waste Facility Application Process, And The Approval Of
22 The Implementation Of The Pilot Program Establishing
23 Submission Dates For Solid Waste Facility Applications.

24 This item has been worked on jointly by the
25 legal office and P&E. And Steve Levine will lead off

1 the presentation.

2 MR. LEVINE: Good afternoon, Madam Board, and
3 Board members.

4 As you recall, a full presentation on this
5 item was made at the Board's briefing last week, which
6 essentially went through in some detail the information
7 contained in the published agenda item staff report.
8 So all interested parties already have all of this
9 information. So today I am going to provide just
10 a brief synopsis of the item, and then -- basically
11 the synopsis.

12 Okay. What this item addresses is
13 a long-standing problem relating to the solid waste
14 facility permit application process. Under the present
15 law, staff's 60-day period to evaluate proposed permits
16 is often substantially curtailed by the LEAs timing of
17 submissions. If a scheduled Board meeting falls just
18 after the expiration of the 60-day period, staff is
19 forced to agendize the item for the preceding meeting,
20 essentially cutting the review time in half.

21 The essential solution to the scheduling
22 problem proposed in this item is to present a fixed and
23 constant date for operator submissions of solid waste
24 facility permit applications to the LEAs. Due to the
25 mechanics of the U.S. calendaring system, the selection

1 of a date certain assures that in most cases staff has
2 nearly all of the statutory 60-day period.

3 The proposal involves the implementation of
4 a calendar system. The Board would continue as it
5 presently does to set certain dates each month for Board
6 meetings where practical. For instance, the third or
7 fourth Tuesday, Wednesday of each month, excepting of
8 course the November and December holidays. Boards would
9 also set a certain date each month as the date that the
10 LEAs shall accept the permit application from operators,
11 and the model works with the final Monday of every
12 month. This calendaring system can be effectively
13 utilized to assure that staff no longer has substantial
14 shortfalls in their review time.

15 On the Board -- and most board members have
16 packets in their hands and also in the item for
17 stakeholders -- is an example of a Proposed Permit
18 Schedule Chart for the upcoming year 2002.

19 As you can see from the chart, where the Board
20 meetings are held on the -- or actually if you go
21 through the chart if you just go with the January
22 initial row, you see that the final Monday of the month
23 in January is the 28th. And then if you go through, as
24 we did before in the briefing and as we've done in the
25 item, the 30 days the LEA has to deem the package

1 complete that would take us to March 3rd. The LEA then
2 has 55 days to take that complete package and present
3 a proposed permit to the Board, that would be on the
4 date April 27th. And as you can see, the Board deadline
5 for consideration is June 26th, which coincides with the
6 fourth Tuesday, Wednesday of that particular month
7 June 25th, June 26th.

8 So where Board meetings are held on the third
9 or fourth Tuesday, Wednesday of the month, this would
10 result in the 60-day deadline coinciding with the fourth
11 Wednesday of the month and the vast majority of the
12 months every year. And you can see in bold each of
13 the months that the deadline coincides with the fourth
14 Tuesday, Wednesday of the month.

15 Where Board meetings are held on the third
16 Tuesday, Wednesday of the month, staff generally loses
17 only one week of the 60-day period. And as to the few
18 months where the 60-day deadline does not coincide with
19 the fourth Wednesday of the month, which varies each
20 year, in almost all cases, as you can see from this
21 chart it is also the case for 2002, the deadline instead
22 falls on the third Wednesday of the month.

23 On those particular dates, staff could
24 identify those dates in advance to the Board and request
25 an accommodation for the upcoming year's schedule for

1 Board meetings on those months.

2 This proposal would not place a burden on
3 operators, as the submission date for applications would
4 be consistent each month which would facilitate their
5 planning. They could plan their submissions and
6 the anticipated date for commencing operations
7 accordingly.

8 The proposal would also not place a burden on
9 the LEAs, as they will continue to have the full amount
10 of time presently prescribed by regulations to submit
11 proposed permits to the Board.

12 Although under this proposal LEAs would no
13 longer have the option under the regulation of deeming
14 applications complete or submitting proposed permits to
15 the Board earlier than the subscribed deadlines. They
16 would need to take their full period.

17 If that is an issue in this particular case,
18 it's important to note that the parties, all interested
19 parties, the LEA, the operators, the Board, could
20 stipulate to an earlier submission or a later
21 submission, so long as a part of that stipulation is
22 that the Board is assured its 60 days to review
23 the permit.

24 Finally, these proposals would set in
25 regulations a fixed date each month for operator

1 submissions to LEAs. So under this scenario no changes
2 to the regulations would be necessary. Other scenarios
3 involved different dates every month. Those types of
4 schedules would need to be updated every year in
5 the regulations.

6 There is one other proposal that we are
7 recommending to the Board with regard to regulations.
8 That's regarding the LEA's timely submission of
9 the application package to the Board. The application
10 package contains the core documents relevant to the
11 determination, as to whether the permit should be
12 issued. And prompt receipt of that package by staff, as
13 soon as it is deemed complete by the LEA, would maximize
14 staff's review time of the documentation.

15 Under the present regulations, however,
16 there's often substantial delay between the date
17 the application package is deemed complete by the LEA
18 and the date that package is transmitted to staff.

19 At present the LEA deems the package complete
20 within 30 days of the operator's submission. The LEA
21 then submits a copy of that application to the Board,
22 but it does not submit a, the application package to the
23 Board at that time, even though it's been deemed
24 complete. In fact, that package is not sent to the
25 Board for another

1 55 days.

2 The proposed solution is to revise the
3 regulation so that delay is eliminated by instructing
4 the LEA to transmit the application package to staff
5 once it has been deemed complete. And as LEAs already
6 make submissions to staff at this time of the
7 application, this would not impose any additional burden
8 upon them.

9 This -- we would propose the implementation of
10 a pilot program with regard to the permit schedule we've
11 been discussing. This program would commence in January
12 of next year and would establish operator submission
13 dates for solid waste facility permit applications.
14 Such a pilot program would provide operators and LEAs
15 with time to familiarize themselves with the process
16 before it is in regulations. It would also provide the
17 Board an opportunity to evaluate the efficacy of the
18 program and to incorporate any resulting refinements or
19 improvements to the process into the proposed
20 regulations.

21 Finally, the proposed resolution of 2001-524
22 seeks approval of the implementation of the pilot
23 program we discussed. Additionally, staff is looking
24 for direction from this Board as to whether they should
25 begin the process of crafting proposed regulations for

1 the Board's consideration which would, one, turn the
2 pilot program into formal regulations; and, two,
3 eliminate the delay in the Board's receipt of
4 the application package by having LEAs transmit the
5 operator's complete application package in a more timely
6 manner.

7 That concludes my presentation. I'm open for
8 questions.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you.
10 We have one speaker. Mike Schaeling.

11 MR. SCHAEILING: Good afternoon. Hope you all
12 had a good lunch.

13 I spent lunchtime talking with Dan Avair from
14 the Solid Waste Policy Committee to be sure both the EAC
15 and Solid Waste Policy Committee were both on board with
16 this proposal.

17 We welcome the change, we realize that
18 the Board staff has been cut short by early, or by I'll
19 call it untimely submittals of permit application
20 packages. And we want to work with Board staff to
21 optimize the permits that you folks see are appropriate,
22 are proper, and are the best permit we can all put out.

23 What we would like to do, though, is work with
24 Board staff during this pilot program over the next
25 year. Dan has suggested someone from the Solid Waste

1 Policy Committee, and I'll select someone from the EAC
2 to be part of a work group, or whatever, to continue to
3 work with Board staff to see that this program is
4 a success.

5 Any questions?

6 BOARD CHAIR MOULTON-PATTERSON: Thank you for
7 your help.

8 Mr. Jones.

9 BOARD MEMBER JONES: Madam Chair, just one.

10 BOARD CHAIR MOULTON-PATTERSON: Oh, we have
11 one more speaker.

12 BOARD MEMBER JONES: Go ahead.

13 BOARD CHAIR MOULTON-PATTERSON: Are you sure?

14 BOARD MEMBER JONES: Yeah, go ahead.

15 BOARD CHAIR MOULTON-PATTERSON: Donald
16 Gamblin?

17 MR. GAMBLIN: Gamblin.

18 BOARD CHAIR MOULTON-PATTERSON: Gamblin,
19 sorry.

20 MR. GAMBLIN: Good afternoon, members of
21 the Board. Donald Gamblin, NorCal Waste Systems.

22 I have taken a look at the proposal and
23 certainly support the Board staff and LEAs working to
24 make sure we get timely processing of permits.

25 I would like to make one request, though, and

1 that is that the Board consider implementing this pilot
2 program say April, May to give us some time to adjust
3 our schedules accordingly. We have a lot in the
4 pipeline, in our pipeline this year. And I'm sure a lot
5 of other operators do, too.

6 We've been working diligently with LEAs to try
7 and schedule our permits and when they will be submitted
8 to the Board, how they will get processed with LEAs,
9 depending on LEA's schedules and whatnot. And we'd
10 simply like a little bit more than three weeks worth of
11 time to be able to adjust those schedules accordingly.
12 So if I can ask for April/May time frame for the
13 implementation of the pilot project, we'd certainly like
14 to see that.

15 Then secondly, just following up with what
16 Mr. Schaeling said. If there is any working group,
17 I would hope that that working group on looking at this
18 issue does involve industry, just to make sure that our
19 concerns are taken into consideration, and we get a
20 realistic view of how we tend to work with LEAs and how
21 we see the system working more efficiently.

22 Thank you.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 BOARD MEMBER PAPARIAN: Madam Chair, I wonder
25 if we can get a quick response from our staff. Any

1 implications of a three-month delay? Any problem with
2 that, as far as you see?

3 MS. TOBIAS: I'll let Mark speak first.

4 MR. DE BIE: Relative to the pilot, I don't
5 see a problem. I would expect that, you know, we could
6 potentially begin the pilot in January. And whoever's
7 in the pipeline and ready to go in January would just
8 gauge their timing for a submittal for January. If
9 they're not ready to go until April, May, then just time
10 it for April, May. So I don't know if it's an issue or
11 not.

12 If we did delay implementation until April,
13 May, would it be for 12 months or would we just do it
14 until the end of the year? We need some clarity on
15 that.

16 BOARD MEMBER PAPARIAN: I am not -- this is as
17 suggested by Don Gamblin as something that meets his
18 need, but I would think if we were to delay it for
19 a couple months that we would still want a 12-month
20 pilot. So you just add a few months to the back end.

21 MR. DE BIE: Right. We'd probably have to
22 revise the resolution, because the resolution just shows
23 a calendar for the next, from January to December and
24 not leading into 2003. So other than that,
25 I think it would work for staff.

1 MS. TOBIAS: I would admit I think there's
2 a psychic benefit to during a year to start the year
3 out. I'm not sure if -- in essence, one of the -- part
4 of the beauty of this, this proposal is that it really
5 doesn't change anything except to give staff the amount
6 of time they should have had.

7 So to a certain extent it's really not going
8 to change the fact anybody could make an application.
9 It's just that if it's made by a certain date it goes on
10 a certain calendar. And if it's not, I think if the
11 Board wants to delay it until February just so that,
12 you know, they had a little bit more time, that,
13 you know, is a second suggestion rather than an April,
14 May type of suggestion.

15 But I think what happens is that we'll
16 continue to see the same problem for approximately
17 the rest of the year. Because if you implement it in
18 April and May, then you have to think out which meeting
19 that first hits, which is a number of months. So really
20 we wouldn't see the benefits of this until, I guess,
21 what, August or something like that.

22 So if there needs to be some delay I would
23 suggest just a month's delay, but I'd also say it would
24 kind of just be nice to start it on the first of
25 the year and go with it.

1 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

2 BOARD MEMBER EATON: Well, I have a question
3 for Mr. Gamblin.

4 As I understand what we're proposing, this has
5 nothing to do with the operator. This has really, as
6 you know, the other half of the equation where you don't
7 want me to go is on the completeness issue, that's where
8 you would be affected.

9 So I think maybe the other half of the
10 equation, this is simply when the LEA forwards it to
11 the Board. And that would have no effect on your
12 time line.

13 MR. GAMBLIN: Actually --

14 BOARD MEMBER EATON: Unless there was
15 something that you didn't want us to do and we would get
16 jammed by it. And that's the whole idea of having the
17 pilot program, so we don't get jammed. But this is it.

18 So explain to me how this would affect your
19 time frame, since all we're saying is that from the time
20 the LEA gets it they've got to forward it to us in
21 60 days. So how does that affect you as the operator?
22 Do we get 60?

23 MR. GAMBLIN: No, not at all. And we try to
24 make sure that you have 60 days.

25 My concern is on the front end with the LEA

1 processing time. Because if I understand the Board's or
2 the Board staff's proposal is that there is one day
3 a month where we can submit applications to the LEA,
4 and that that LEA is then required to take its full
5 amount of time that is allotted to it as opposed to not
6 being required to do that.

7 And there's oftentimes where we've been
8 working over a significant period of time with the LEA
9 to make sure that when we do submit it is a very
10 complete application and can be forwarded within a short
11 period of time to the Board so that the Board does have
12 the full 60 days.

13 Now, again, I hear staff's proposal as being
14 very different that we're not talking about the LEAs
15 being able to forward, say, receive an application and
16 forward it within a few weeks, but that they're going to
17 be required to essentially in some cases just hold on to
18 that application package and proposed permit until their
19 55 days is up, and then forward it on for the full
20 60-day review by the Board.

21 That's my concern is on that front-end piece.
22 I am not suggesting in any way that the Board have
23 anything less than 60 days. But it's on the front-end
24 in how we are able to work with the local jurisdictions
25 and the LEAs.

1 I'll give you an example. Oftentimes LEAs we
2 try and preschedule with them when our applications are
3 going to come in, because of their staff time
4 constraints and whatnot. And they may not always -- we
5 may get requests from the LEAs to either speed up or
6 slow down an application submittal given their
7 constraints on when they will have time to review that.
8 And I would hate not to have that ability on the
9 front-end. And secondly, to have them required to hold
10 on to a permit for a certain period of time before it is
11 forwarded to the Board.

12 BOARD MEMBER EATON: Perhaps staff needs to
13 make a clarification, based on some of your points.

14 Mr. deBrie -- I mean, deBie.

15 (Laughter.)

16 BOARD MEMBER JONES: Let it go.

17 MR. DE BIE: I don't know if Mr. Gamblin was
18 at the briefing, but I do recall staff indicating that
19 there would be some flexibility, in the way of
20 a stipulation from the LEA, that if they didn't need to
21 take all of the time required that they could
22 communicate with Board staff and say, you know, we did,
23 we're finishing up early, what date should be we submit
24 it to give you the full 60 days? And we would indicate
25 to them at that time the appropriate date to submit

1 that.

2 So, you know, sort of the way it's outlined
3 with the dates is if everyone did take their maximum
4 time frames it would work. But certainly there's
5 flexibility in terms of a stipulation if you're working
6 on this pilot and you want to take 40 days instead of
7 55 days, that's fine. Maybe hold it off for a couple
8 days, so that it times well with the Board's calendar,
9 and we get the full 60 days.

10 If Mr. Gamblin's concern is that it affects
11 the operator/LEA time frame, and he has no problem with
12 assuring the 60-day Board time frame, then it should
13 work for him, too.

14 BOARD MEMBER EATON: Does that help? Because
15 that's the way I read it in the briefing.

16 MR. GAMBLIN: Yeah, that does help. I just
17 want to make sure that the LEA is not going to be
18 prevented from submitting an application package and
19 a proposed permit within a short period of time and
20 before their 55 days is up. That's what I heard from
21 the staff presentation, so I just was seeking
22 clarification on that.

23 If that's not the case, again I would still
24 like to see a little bit of a delay in implementing
25 the pilot, just to be able to speak with the LEAs that

1 we've been working so closely with and adjust schedules
2 accordingly. Because it sounds, it does -- there's
3 implications of it being a little bit more onerous on
4 the front end.

5 I hope that's not the case from what I'm
6 hearing, but, you know, time will tell. And if two or
7 three months can help us to prepare for that, that would
8 be very helpful.

9 Thank you.

10 BOARD CHAIR MOULTON-PATTERSON: Ms. Tobias
11 wanted to respond, then Mr. Medina.

12 MS. TOBIAS: I just was going to say that I
13 think that that's the whole reason we made this a pilot
14 program instead of coming forward to the Board with
15 a set of regulations. One of the other approaches would
16 have been to give you a set of emergency regs and say
17 Let's try this and set them in a year or whatever.

18 We felt that it was a different enough
19 approach, plus there might be, need to be some tweaking
20 of schedules to see how this works. So it really is
21 what it says: It's a pilot program. And the idea is to
22 see how this works and to work these kinds of things
23 out.

24 So I think that we can work these things out.
25 I do think it will be done with the intent of making it

1 work for everybody: Board, staff, operators, LEAs.

2 And so I think there will be the flexibility in
3 the process to do that.

4 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

5 BOARD MEMBER MEDINA: I just wanted to say
6 that I support the pilot project. And agree with
7 Ms. Tobias that if it does not place any undue hardship
8 on the LEAs, that it would be preferable to launch this
9 pilot project on the first of the year in January.

10 BOARD CHAIR MOULTON-PATTERSON: I certainly
11 appreciate your work on this, too, because I know we
12 have been in a real bind when we haven't had 60 days.

13 Mr. Jones.

14 BOARD MEMBER JONES: Just one brief comment.
15 You know, I think that we can't lose sight of the fact
16 that the operator has a responsibility to bring forward
17 as complete a package as possible. That takes give and
18 take between him and the LEA -- or the operator and the
19 LEA, because it takes a long time to get that permit
20 into a position where it can actually be deemed
21 complete.

22 This does nothing, nothing to hinder that.
23 The only thing it does is if operators and LEAs aren't
24 talking and aren't getting the stuff together, whatever
25 side it is that's creating the hardship, this is going

1 to help move it along so that everybody gets a piece.

2 And, you know, I, I have to do an ex parte.

3 I talked to Chuck White real quickly about this --

4 and just that I came back from or during this thing --

5 who would also like to see a delay; but I am not going

6 there.

7 I think that we can continue to see permits in

8 front of us that says more information due closer to the

9 meeting, right?

10 So if there's anything in the pipeline that's

11 not complete -- which by the way it doesn't coincide

12 with what the statute says because the statute does say

13 it should be deemed complete -- that those can continue

14 to come forward. It's the ones from these dates out

15 that have to be complete when they go to that LEA.

16 So saying that, if there isn't a whole lot

17 more comment, I think the staff did a good job. And

18 you just need to know this was a proposal by the Board.

19 There were members of this Board that have always

20 advocated a time line, staff fulfilled that, and

21 I appreciate that. So anybody wants to throw sticks and

22 stones, just bring them this way.

23 I would like to move adoption of Resolution

24 2001-524 Consideration of the Options Regarding

25 Revisions to Regulation for the Solid Waste Facility

1 Application Process and the Approval of Implementation
2 of a Pilot Program Establishing Submission Dates for
3 Solid Waste Facility Applications.

4 BOARD MEMBER MEDINA: Second.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
6 a motion by Mr. Jones, seconded by Mr. Medina, for
7 Resolution 2001-524.

8 Please call the roll.

9 BOARD SECRETARY VILLA: Eaton?

10 BOARD MEMBER EATON: Aye.

11 BOARD SECRETARY VILLA: Jones?

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY VILLA: Medina?

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY VILLA: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY VILLA: Roberti?

18 SENATOR ROBERTI: Aye.

19 BOARD SECRETARY VILLA: Moulton-Patterson?

20 BOARD CHAIR MOULTON-PATTERSON: Aye.

21 And again, thank you. We appreciate it.

22 We're going to take up 40 next, but our court
23 reporter would like a short break. So we'll take
24 10 minutes now.

25 (Recess taken.)

1 BOARD CHAIR MOULTON-PATTERSON: I'd like to
2 call the meeting back to order, please. I just wanted
3 to announce that my intention is to certainly finish our
4 today's agenda which is through 21. If you leave the
5 building you can't get back in after 5:00, apparently.
6 So if you want to be here don't leave the building in
7 case we go over.

8 Number 40.

9 MS. NAUMAN: Item No. 40 is --

10 BOARD CHAIR MOULTON-PATTERSON: Yes,
11 I'm sorry. We need to do ex partes.

12 I'll start with you Senator Roberti.

13 SENATOR ROBERTI: Yes, I spoke to Lynsey Smith
14 regarding Rubber Sidewalks and the project that was
15 recently granted one of the -- excuse me, tire
16 commercialization grant.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you,
18 Senator.

19 Mr. Paparian.

20 BOARD MEMBER PAPARIAN: Just a brief
21 conversation with Chuck Calget (phonetic).

22 BOARD CHAIR MOULTON-PATTERSON: Thank you.

23 Mr. Medina.

24 BOARD MEMBER MEDINA: None to report.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

1 BOARD MEMBER EATON: Just talked to Chuck
2 White on the captive insurance issue. And I talked to
3 George Larson about Kelly Aster's payment or lack
4 thereof with regard to the usual (inaudible) lunch tab.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. And
6 I had none.

7 Okay. So we'll go to Number 40.

8 MS. NAUMAN: Discussion of Potential Issues
9 Related to Solid Waste Facility for Los Angeles County
10 Inert Facilities.

11 This item is being brought to you as
12 a discussion of emerging issue that has come to staff's
13 attention. This is kind of a joint effort between the
14 staff and (inaudible) staff.

15 So Mark deBie will lead off the presentation.

16 MR. DE BIE: Thank you, Julie.

17 Mark deBie with Permit & Inspection.

18 We had intended this to be a Power Point
19 presentation, but considering how things are set up
20 today we're going to defer to just doing it through the
21 printed material, which I believe you all should have a
22 copy in front of you now of the Power Point slides.
23 There were copies of this out on the table earlier today
24 (indicating).

25 And if anyone in the audience did not get a

1 copy if you leave your business card with Deborah McKee,
2 hand raised, she'll get you a copy of the presentation.

3 As Julie indicated, this is a discussion item
4 only, no action's being requested of the Board relative
5 to this. And it's staff's opportunity to share with
6 the Board some information that we've received just
7 recently, just within the last week or so, about some
8 inquiries that have been made relative to inert sites,
9 especially inert sites in L.A. County.

10 And so again this is just a discussion item to
11 share some very preliminary information that the staff
12 is aware of. And our hope I think is to increase the
13 awareness of the Board relative to what's been inquired
14 of staff. And the issues and potential impact
15 associated with that, so that the Board members are
16 better grounded on the issues.

17 There may be some discussions in the future
18 relative to this. Certainly if the Board requests
19 additional discussions, we can bring that forward.
20 This is a very preliminary analysis, not a lot of
21 detail, but if it's the Board's wish after this
22 presentation to learn more, we can accommodate that.

23 So I call your attention to what would be the
24 first Power Point slide: A preliminary analysis of
25 evolving issues relative to the inert disposal sites and

1 permits. And this is just an outline of some of the
2 issues we were going to present to you starting with
3 background, some general definitions starting with
4 nontraditional facilities, some of the specifics in
5 L.A., some of the new information we received relative
6 to inquiries about surrendering permits, extensions, and
7 then potential impacts both to permits and C&D inert
8 regs as well as diverse disposal.

9 Relative to background, there are a number of
10 definitions that are applicable to inert disposal sites,
11 well, to disposal sites in general as well as inert.
12 And if you read through these definitions it becomes
13 clear that C&D and type materials, inert materials can
14 be classified, are classified as solid waste and that
15 the placement of that material in the ground or on
16 the ground can be determined to be (inaudible).

17 So inert was aware of the situation many years
18 ago that C&D and inert handling as well as disposal was
19 a solid waste operation, and directed staff to include
20 C&D and inert in a list of what was then referred to as
21 nontraditional facilities to put through the tier
22 process.

23 So I'll call your attention to what would be
24 the third slide on page 2 or the top of page 2
25 nontraditional facilities talking about tiers,

1 advisories, and the regs and line survey. The tier
2 structure was an effort of the Board to determine
3 through the regulatory process what the appropriate
4 level of regulation or nontraditional facilities would
5 be. Traditional facilities would be ones that handled
6 solid wastes, transfer stations, MSW landfills, compost
7 facilities. The nontraditional ones were ones that
8 tended to handle more select loads or one particular
9 waste type, be it ash or sludge or C&D or inerts,
10 and then determine what was the appropriate level of
11 regulation.

12 Well, the Board was stepping through that
13 tiered process and addressing the various different
14 types of waste streams and placing them in the tiers.
15 An advisory was released back in '94, that basically
16 gave guidance to LEAs that they should consider not
17 processing any permits for these nontraditional
18 facilities until there was greater clarity through the
19 tier process on what the appropriate level of regulation
20 should be.

21 The fear was or the concern was is that
22 the only available tier without regulation would be
23 a full permit and that may not end up being
24 appropriate. So to avoid facilities coming in and
25 getting a full permit then being slotted into a lesser

1 tier needing to change out. So the advisory was
2 intended to avoid that situation.

3 C&D, inerts are part of this process. And as
4 you're more than aware of, we're in the middle of
5 determining the appropriate level of regulation for C&D
6 and inert for both transferring processing as well as
7 disposal. As an aspect of that, the Board asked us to
8 survey mines, and we're in the process of doing that,
9 relative to their use of C&D and inerts.

10 There's a contractor an interagency agreement
11 with UCD, and we expect to have a final report in a few
12 weeks from UCD that Board staff will be reviewing. And
13 if it meets the, all of the requirements and the scope
14 of work as laid out, we'll be bringing that to the Board
15 as soon as possible for the Board's use in the, in their
16 effort to slot facilities for disposal of inerts.

17 I'm going to ask you to go to page 3 which has
18 some details on the Advisory 12, which I think I have
19 iterated already.

20 Then moving on to some specific information
21 relative to inert sites in L.A. County, in the LEA
22 jurisdiction, specifically. Searching in our database,
23 Swiss database, I was able to identify that in that
24 database at least there are 11 active inert-disposal
25 sites enumerated. 5 of them currently have full solid

1 waste facility permits. 6 of them are indicated as to
2 be determined or not currently regulated.

3 My speculation now not, having not inquired in
4 detail with the LEA involved that these are some of the
5 facilities that the LEA has chosen not to address
6 because of Advisory 12. I can't tell you today if
7 that's definitively true. Again, this is only a
8 preliminary analysis. I'm just indicating what we have
9 in our database.

10 I also have sort of a footnote there
11 indicating that there are two additional inert disposal
12 sites in L.A. City, and both of them are, show up in the
13 database as being exempt from the requirements of
14 a solid waste facility permit.

15 Moving to page 4 on the first slide. The new
16 information that staff has come across is, that there
17 are two bits of information. One is a recent letter
18 that has been circulated around that staff has been cc'd
19 on, and I believe a number of Board members from the
20 Water Master indicating that they have not or the
21 Water Master never intended to require inert disposal
22 sites in the San Gabriel area to get full solid waste
23 facility permits. So that's one bit of new
24 information.

25 The second bit is some inquiries that we've

1 received from an individual seeking guidance or opinion
2 from Board staff about issues relative to surrendering
3 permits for some of these inert sites that currently
4 have permits.

5 So relative to surrendering permits, some
6 facts that we would like to share with you is that
7 statute and regulation do not contain any provisions
8 regarding surrender of permits. In the past, permits
9 have been surrendered when sites are closed down. And
10 that's the only situation we're aware of that
11 surrendering has taken place. There is no approval
12 necessary in those situations where the site has closed
13 and there's no longer any activity to, relative to
14 surrendering permits.

15 Moving to page 5. There is some difference
16 here, and that's what we've heard is a potential
17 proposal to surrender a permit but then still have
18 the facility remain active. So that's a little bit
19 different or a lot of bit different than what we've
20 experienced in the past, relative to how surrendering of
21 permits have been utilized.

22 There is an exemption in regulation relative
23 to an LEA's ability to exempt a facility from
24 the requirements of a solid waste facility permit.
25 There's basically a two-tier aspect to being able to

1 make or to grant an exemption. One is that the facility
2 must be identified as one of the types of facilities
3 that can be exempted. And unclassified waste disposal
4 sites are listed in there, and many of these inert
5 disposal sites are unclassified sites. The Regional
6 Water Quality Board is the one that determines the
7 classification.

8 In addition to that, the LEA must also make
9 three findings during a public hearing. And you'll find
10 those on page 6 of the handout for slide: That the
11 exemption is not against the public interest. That the
12 quality or quantity of the solid waste is insignificant
13 and that the nature of the solid waste poses no threat
14 to health, safety, and environment.

15 So if a facility meets the description or the
16 criteria in the reg and these three findings can be made
17 during a public hearing, then potentially the LEA can
18 exempt that facility.

19 Just a few more facts about exemption.
20 The site, even though it's exempt from needing a permit,
21 would not be exempt from state minimum standards.
22 And there's a regulatory requirement that the LEA
23 continue to inspect exempt facilities on a quarterly
24 basis.

25 The Board does not have any approval relative

1 to granting exemptions. The Board certainly can provide
2 information directly to the LEA or during the public
3 hearing. And the Board always is in a position to
4 provide technical assistance to the LEA regarding any
5 issues they're confronted with.

6 Page 7 is a quick list of, a very short list,
7 initially at least, of some potential impacts relative
8 to what may occur if an inert site did surrender a
9 permit in the near term. Certainly the C&D and the
10 inert regulations come into play. That is the forum
11 that the Board is currently walking through to determine
12 the appropriate level of regulation for these sites.

13 So having a site surrender their permit,
14 basically saying a full permit is not required,
15 potentially being found exempt would have some
16 influence, some effect on how those regs may play out.

17 Also statewide consistency. We're aware that
18 there are at least -- and again looking at only the
19 database -- at least 11 other active inert sites
20 throughout the state and that's in addition to the ones
21 I have enumerated down in L.A. County, LEA
22 jurisdiction. And our database indicates there are
23 at least six more that have been identified as potential
24 new sites or planned sites. There may be more, there
25 may be less. This is what the database is reporting to

1 us right now.

2 Besides impacts to the regs and what
3 surrendering of a permit may mean for other facilities
4 statewide, there are issues certainly relative to
5 diversion and disposal.

6 And I'm going to ask Lorraine Van Kekerix to
7 come up and review the rest of this presentation for you
8 relative to those potential impacts.

9 MS. VAN KEKERIX: Okay. Starting on page 8.
10 The types of impacts that we have identified, in terms
11 of diversion and disposal, would be impacts on base-year
12 waste generation tonnage. And 2002 at minimum disposal
13 tons. It wouldn't start prior to 2002. And 2002
14 diversion rates.

15 We're taking a look at specific impacts.
16 I have a few examples, but we haven't calculated all of
17 them. And many Southern California jurisdictions could
18 be impacted by the surrender.

19 The first category base-year generation
20 impacts I'd like to give you some information on. There
21 were four Board permit inert sites in Los Angeles County
22 that were not included in the 1990 the base-year
23 disposal tons. And the Board determined that there were
24 about 4 million tons not included in the L.A.
25 jurisdictions base years. And they came up with an L.A.

1 fix to be able to allocate those tons out to the
2 Los Angeles County jurisdiction. The Board approved
3 28 revised 1990 base-year disposal amounts with the
4 L.A. fix.

5 In addition, the Board has approved about 40
6 new base years that include disposal reporting system
7 tons that are disposed at the inert landfills. So those
8 tons were added in the new base year.

9 On page 8 -- or wait, going the wrong way.
10 Page 10. If these permits are surrendered the tons
11 would no longer count as disposal. The inerts from
12 the force of the facilities must be subtracted from
13 base-year generation if the permits are surrendered,
14 because if they're not disposal then they're diversion
15 and they need to meet the restricted-waste criteria.

16 In terms of impacts on our disposal reporting
17 system. The disposal reporting system requires all
18 Board-permitted landfills report the jurisdiction of
19 origin for tons disposed and for alternative daily
20 cover. This went into effect in 1995. So the tonnage
21 of these four facilities would not count as disposal
22 once those permits were surrendered.

23 On page 11 we go into diversion rate impacts.
24 There would be no impacts on 2000 or 2001 diversion
25 rates, because no permits will have been surrendered

1 prior to 2002. Diversion rate impacts on jurisdiction
2 will vary depending on tons of inerts from the four
3 facilities in the base year and the measurement year.

4 Now, I don't have 2002 data to give you, so
5 I took the data from the base years and from the year
6 2000 to give you a few examples. And you can see that
7 the, the impacts are going to be very varied. For
8 example, Lancaster took the L.A. fixed ton. Their
9 diversion rate would go from 52 percent to 38 percent.
10 If the tons were removed.

11 Los Angeles County also took the L.A. fixed
12 tons. And they would go from a 30-percent diversion
13 rate to a 23-percent diversion rate. The City of
14 Arcadia took no fixes from the L.A. fix and has not done
15 a new base year. Their diversion rate would go from
16 30 percent to 52 percent. And it isn't just Los Angeles
17 County --

18 SENATOR ROBERTI: Arcadia is how much again?

19 MS. VAN KEKERIX: 52.

20 SENATOR ROBERTI: From?

21 MS. VAN KEKERIX: 30.

22 It isn't just Los Angeles County jurisdictions
23 that would be impacted, because jurisdictions in Orange,
24 San Bernardino, and Riverside also send some waste and
25 if they've done a new base year, for instance, Irvine

1 would move from 44-percent diversion to 46-percent
2 diversion.

3 So you can see that there is a wide range in
4 the kinds of diversion that would, impacts that would be
5 changed.

6 In terms of future steps. The staff will be
7 continuing to develop the C&D regulations package that
8 Mark described to you and dealing with various issues
9 there, and the diversion planning and local assistance
10 staff will continue to identify specific impacts on
11 diversion rates, so that you can have a better idea of
12 how much certain jurisdictions will be impacted.

13 And that ends our presentation. We'll be
14 happy to answer questions.

15 BOARD CHAIR MOULTON-PATTERSON: Questions?

16 Okay. Thank you very much for your work on
17 this. It was really helpful. Okay.

18 We'll move on to Mr. Schiavo.

19 MR. SCHIAVO: Pat Schiavo of the Diversion
20 Planning & Local Assistance Division.

21 Item No. 14 is Discussion and Request for
22 Direction Regarding Alternative Daily Cover Tonnages
23 Reported to the CIWMB Disposal Reporting System for
24 Calendar Year 2000 for nine different facilities.

25 And Dianne Range will be making this

1 presentation.

2 MS. RANGE: I believe you all have handouts of
3 the slide presentation and it's Agenda Item No. 14.
4 It starts with board meetings, first slide.

5 This item is a follow-up to the July Board
6 meeting when staff reported to the Board on nine
7 facilities that reported significant amounts of ADCUs in
8 the disposal reporting system calendar year 2000.

9 Since that time we have been, staff have been
10 working with the operators and the counties that are
11 involved with these facilities. And if you look on the
12 further slides, they identify the facilities that we're
13 talking about.

14 Slide Number 2. And we'll just continue on
15 with the fact that we have since that time received
16 most, from all of these facility operators, most of
17 the data and calculations supporting some of the
18 ADC use.

19 For seven of nine of these facilities we were
20 able to resolve the incorrect reporting and the
21 misreporting of the ADC tons. And we did today receive
22 additional information from the County of San Bernardino
23 County. And we are still going to have to review that
24 data to determine what that information is and how to
25 evaluate its ADC use.

1 So seven of these nine facilities have been
2 resolved and as a result of that, we have had production
3 in the amount of ADC reported or claimed which was
4 originally reported for the year 2000 as 5-and-a-half
5 million tons of ADC, or 13 percent of statewide
6 disposal.

7 The corrections from those seven facilities
8 have resulted in 2.8 million tons of ADC or 7-percent
9 statewide disposal. So that is a significant
10 reduction. And most of the material types that were
11 affected, well, the material type that was greatly
12 affected was green waste. And that material type went
13 from 3.8 million tons to 1.6 million tons. So as you
14 can see, on a statewide basis there was a significant
15 reduction in ADC reported.

16 There are two facilities that are operated by
17 the County of San Bernardino. And those two facilities
18 are still in question right now, because of data that we
19 have received from them still warrants some further
20 investigation. And we do need to work again to find out
21 a little bit more information about the ADCUs for those
22 facilities.

23 The County did submit some calculations on
24 the Fontana facility, and we did have an opportunity to
25 review those calculations. And what we did find was

1 that there was an error in the calculation that
2 the amount of ADC that was, that was added to disposal
3 amounts was a figure that was used to calculate what was
4 needed for covering waste at the facility. So that
5 amount was basically in excess of the amount that was
6 needed to cover disposal.

7 So after having removed that, that excess, we
8 subtracted out that amount and using the County's
9 methodology we just recalculated the data. And based
10 on that, rather than the 28 percent ADC used that
11 they claimed is required, the amount was closer to
12 18 percent. But again, this is something that we feel
13 that we need to have some further investigation of.

14 Also they did submit a revision to their
15 jurisdiction of origin. And there are some questions
16 about the discrepancies of the jurisdictions in that
17 division. So we also would like to take a look at that
18 a little bit closer.

19 We had not received any calculations to
20 support the claims for ADCUs use for the facility at
21 Colton. And so we would like to get that information to
22 be able to make a determination about its ADC overuse,
23 or potential ADC overuse.

24 So with these two outstanding issues yet to be
25 resolved for the facilities at Fontana and Colton, we

1 have staff recommendations for that. And that is to
2 conduct some field investigations which would include a
3 record review with the Board of Equalization. And then
4 to present that information, the findings and
5 recommendations to the Board based on that investigation.

6 Okay. So other options for the Fontana
7 facility, or that the Board can find that the ADC use is
8 in excess and to direct the staff to add the excess
9 ADC tons to the whole jurisdiction's disposal; that
10 would be the City of Rialto? Or to find that ADC use is
11 not in excess and to direct staff to reallocate the
12 ADC jurisdiction of origin.

13 For the facility of Colton to find that
14 ADC use is in excess and direct staff to add the excess
15 amounts to the whole jurisdiction; that would be the
16 City of Colton's disposal. Or to find it not in excess
17 and to direct staff to reallocate ADC jurisdiction of
18 origin.

19 That ends the presentation.

20 Are there any questions?

21 BOARD MEMBER PAPARIAN: Madam Chair.

22 BOARD CHAIR MOULTON-PATTERSON: Yes,

23 Mr. Paparian.

24 BOARD MEMBER PAPARIAN: Thank you.

25 The dollar, the 1.34 a ton fee, would that

1 have been collected on any of this ADC going in?

2 MS. RANGE: Not on the ADC amounts.

3 BOARD MEMBER PAPARIAN: Okay. So we're
4 looking at working with the Board of Equilization to
5 collect calculated well over a million dollars?

6 MS. RANGE: If it is determined it is in
7 excess, then that excess amount would be put into the
8 disposal amount and would be subject to the fee.

9 BOARD MEMBER PAPARIAN: Okay. So we are going
10 to pursue that then with the Board of Equilization?

11 MS. RANGE: Yes.

12 BOARD MEMBER PAPARIAN: In terms of the
13 recommendations you just had, I felt comfortable with
14 reporting the excess ADC back to those jurisdictions'
15 disposal as you suggested. It terms of what I'm
16 comfortable with, at this point I'm comfortable with
17 that.

18 BOARD CHAIR MOULTON-PATTERSON: I had
19 a question: How long would it take if staff
20 recommendations were approved to get the audit from DOE
21 and to bring the final numbers to the Board?

22 MS. RANGE: Well, we have requested their help
23 in conducting this audit. We haven't heard back on
24 the time certain. They are aware of the expeditious
25 nature of this, and they are going to try to consider

1 that in terms of their audits. But at this point, we
2 haven't had a final date.

3 BOARD CHAIR MOULTON-PATTERSON: Did you want
4 to add something?

5 MR. SCHIAVO: I was going to say fortunately
6 the impact of this would only be on a total of 43
7 jurisdictions at most. Most of that not too material
8 for the calculation of the rates. So we can move
9 forward with a lot of the other jurisdictions for the
10 biennial the reviews. I mean, I heard we can possibly
11 get out there later January or so. That we'll have to
12 see after we hear back from them.

13 Having the other facilities report, and
14 because of the magnitude of those and how many
15 jurisdictions reported to those facilities, you know, it
16 was in the hundreds. So fortunately we can move forward
17 with all of those. So we have a little bit of time on
18 this.

19 BOARD CHAIR MOULTON-PATTERSON: So I guess
20 we're in agreement.

21 Anything else?

22 BOARD MEMBER EATON: Have you got any response
23 from DOE at all?

24 BOARD CHAIR MOULTON-PATTERSON: Oh, I had a
25 speaker on this item, too.

1 MS. RANGE: They're checking their schedules
2 and they're due to get back to us within the next week
3 or so.

4 BOARD MEMBER EATON: I would just make a
5 recommendation if there was a problem at the staff level
6 you might want to write a letter to some of our fellow
7 DOE Board members and say this is important to us from
8 a perspective of policy as well as financial. And that
9 whatever they could do to put us in a priority position
10 for the audit would be helpful.

11 MS. RANGE: Yeah, I think this --

12 BOARD MEMBER EATON: If you can determine that
13 you can work through the executive director to find out
14 if you weren't getting a response, that may be a way.
15 Just figure it's like any other request, but I sense
16 there's more than just a passing interest in this
17 issue.

18 MS. RANGE: We can let you know what they tell
19 us.

20 BOARD CHAIR MOULTON-PATTERSON: Okay.

21 Thank you.

22 Pat Galleger of San Bernardino County.

23 MS. GALLEGER: Thank you for your time.

24 I would like to clarify a couple of things
25 that have been stated here.

1 One of the things was the information that was
2 requested on Colton was requested of me on Thursday
3 afternoon. That material was faxed to the Waste Board
4 on Wednesday morning. In addition, I put in a phone
5 call to let them know that material had been faxed and I
6 wanted to talk to staff about the material that was sent
7 to them. As far as the differences in jurisdiction and
8 origin, from what I understand possibly additional staff
9 on our end, it is only one vendor and I have no way nor
10 do I know of a way that we can verify what information
11 he's providing to who. From what I understand, it's
12 changing based on what jurisdiction he's answering to.

13 I would also like to clarify an additional
14 thing on the model and the differences in percentages.
15 We need to, in part, understand that, one, there was an
16 error in the model. I punched in the wrong number,
17 I notified the Waste Board within days of that mistake.

18 However, the other thing that is coming about
19 is I think we're having a semantic difference in that
20 when I am discussing percentage of ADC and waste,
21 I am not -- it doesn't look like what I am calling as
22 percentage is the same thing the Waste Board staff are
23 calling percentages.

24 The original calculations that we provided
25 them, even though the tonnages were incorrect, the

1 percentage of waste to cover was correct in the way that
2 I was calculating it. Which was covered divided by the
3 amount of waste going into the landfill. That's an easy
4 number for staff to deal with. In that if 100 tons is
5 going into a landfill, they know 20 percent may be
6 acceptable in ADC; then they know that 20 tons is
7 something that they're looking for to apply that day.

8 The second step when we revised numbers was
9 cover divided by waste plus cover. And that results in
10 a number that's running approximately 22 percent for
11 Mid-Valley. The number that the Waste Board staff is
12 using is covered divided by all the material that went
13 into the landfill, including the additional green
14 material that's still under discussion.

15 So we're not -- I don't think we're
16 disagreeing on the numbers. What we're disagreeing on
17 is some of the terms. And I would like to make it clear
18 that I don't think the differences are that big, so
19 we're continuing to work with staff. But I do get
20 concerned when I know that we're working with staff and
21 we're providing them with information, and I come up
22 here and hear that somehow something is not being
23 communicated and they're not aware that that information
24 was provided.

25 So with that, like I said, we would like to

1 continue to work with the Board, and we appreciate your
2 time and your efforts in dealing with the situation.

3 BOARD CHAIR MOULTON-PATTERSON: We appreciate
4 you coming up then. Hopefully staff will work very
5 closely with you.

6 Thank you.

7 BOARD MEMBER JONES: I have one question.

8 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

9 BOARD MEMBER JONES: I'll make it quick.
10 Some of the photos, some of the staff visits
11 showed pretty deep applications. And I understand,
12 you know. But it's going to be hard to figure out what
13 the math of that was.

14 MS. GALLEGER: And I understand that. But one
15 of the other problems is, I have never seen the photo.
16 I have been told about it a number of times, but we have
17 never at Solid Waste seen that photo. Nor were we
18 involved in the inspection or notified any time
19 immediately after the inspection, so that I could go out
20 and do an investigation.

21 I'm not disputing the information. I know
22 that inspector with the Waste Board, and I have no
23 question with him. Other than I don't have the
24 information to know exactly what happened.

25 BOARD MEMBER JONES: Well, that I think needs

1 to be clarified.

2 MS. GALLEGER: Yeah.

3 BOARD MEMBER JONES: The pictures that we saw
4 had somebody up to their waist and still hadn't found
5 the solid waste.

6 MS. GALLEGER: And I hear rumors from site
7 staff that they were in places where they couldn't get
8 compaction. And like I said, I don't even want to
9 present that as evidence because I can't verify any of
10 it.

11 Unfortunately, we were not involved in that
12 inspection nor was there an exit interview where we had
13 a time to discuss it and understand what was going on
14 so we could investigate. So I've been operating in the
15 dark on most of this. And I apologize for that, but
16 that's been the situation.

17 BOARD MEMBER JONES: Okay.

18 BOARD CHAIR MOULTON-PATTERSON: Thank you.

19 That brings us to Item 17.

20 MR. SCHIAVO: Item No. 17 is Consideration of
21 Staff Recommendation on the Completion of Compliance
22 Order IWMA BR99-97; And Consideration Of The 1997/1998
23 Biennial Review Findings For The Source Reduction And
24 Recycling Element And Household Hazardous Waste Element
25 For The City Of Chowchilla, Madera County.

1 And Kaory Cruz will be making a brief
2 presentation.

3 MS. CRUZ: In November of 1999 the City of
4 Chowchilla was issued a compliance order for failing to
5 provide citizen information to demonstrate that it made
6 a good-faith effort in implementing its household
7 hazardous waste element.

8 The City was ordered to work with the office
9 of assistants to determine the program gaps. And to
10 implement all of the programs (inaudible) or suitable
11 alternate programs.

12 The City and Board staff then worked together
13 and established (inaudible) identifying five programs.
14 The City successfully implemented all of the outlying
15 programs except number five the permanent household
16 hazardous waste collection facility at the county owned
17 landfill.

18 Board staff recommends that the combination of
19 antifreeze, battery, oil, and paint collection center
20 and periodic household hazardous waste collection events
21 within the city limits of suitable alternatives to the
22 permanent facility.

23 Therefore, it is staff's recommendation that
24 the Board remove the City of Chowchilla from Compliance
25 Order IWMA BR99-97 and accept that 1997/1998 biennial

1 review finding.

2 We are available to answer any questions.

3 This concludes my presentation. Thank you.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you.

5 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina,

6 and then Mr. Jones.

7 BOARD MEMBER JONES: Go ahead, sorry.

8 BOARD MEMBER MEDINA: There were no questions

9 from Board members. I was ready to move this.

10 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

11 BOARD MEMBER JONES: No, go ahead.

12 BOARD MEMBER MEDINA: Madam Chair, I'd like to

13 move this Resolution 2001-489. Consideration of Staff

14 Recommendation on the Completion of Compliance Order

15 IWMA BR99-97 and Consideration of the 1997/1998 Biennial

16 Review Findings For The Source Reduction And Recycling

17 Element And Household Hazardous Waste Element For The

18 City Of Chowchilla, Madera County.

19 BOARD MEMBER JONES: Second.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you.

21 Motion by Mr. Medina, seconded by Mr. Jones,

22 to approve Resolution 2001-489.

23 Please call the roll.

24 BOARD SECRETARY VILLA: Eaton?

25 BOARD MEMBER EATON: Aye.

1 BOARD SECRETARY VILLA: Jones?

2 BOARD MEMBER JONES: Aye.

3 BOARD SECRETARY VILLA: Medina?

4 BOARD MEMBER MEDINA: Aye.

5 BOARD SECRETARY VILLA: Paparian?

6 BOARD MEMBER PAPARIAN: Aye.

7 BOARD SECRETARY VILLA: Roberti?

8 SENATOR ROBERTI: Aye.

9 BOARD SECRETARY VILLA: Moulton-Patteron.

10 BOARD CHAIR MOULTON-PATTERSON: Aye.

11 That brings us to 18.

12 MR. SCHIAVO: Item 18 is Consideration Of
13 Staff Recommendation To Change The Base Year To 1999
14 For The Previously Approved Source Reduction And
15 Recycling Element; Consideration Of The 1997/1998
16 Biennial Review Findings For The Source Reduction And
17 Recycling Element And Household Hazardous Waste Element;
18 And Consideration Of Completion Of Compliance Order
19 IWMA BR99-47, For The City Of King City, Monterey
20 County.

21 And Susan Sakakihara will be making this
22 presentation.

23 MS. SAKAKIHARA: The City of King City
24 contracted with a consultant to measure their 1999
25 diversion rate, because their original base share was

1 not reflected with their program implementation
2 efforts.

3 Per Board member Paparian's request at the
4 briefing, pages 19 through 26 were replaced as the
5 shading made it difficult to read.

6 The City originally submitted a new base year
7 change request with a diversion rate of 86 percent.
8 As part of the base year review, Board staff conducted a
9 detailed site visit with representatives of the Salinas
10 Valley Solid Waste Authority.

11 As a result of the site visit, staff suggests
12 reducing the tonnage from the 60,107 tons to 32,875.
13 This reduces the diversion rate from 86 to 78 percent.

14 While a large portion of the deductions were
15 made from vegetable culls that were not representative
16 of a typical year, the total amount of culls diverted
17 still represents approximately 60 percentage points of
18 the total 78-percent diversion rate.

19 All of the Board staff reductions can be
20 viewed in their entirety by referring to Attachment 3
21 in the agenda.

22 The City and the Salinas Valley Solid Waste
23 Authority have been very cooperative in their efforts
24 to work with Board staff on the new base year. Board
25 staff is recommending option two of the agenda item,

1 which will approve the revised issue with staff

2 recommendations, except the 1997/98 biennial review

3 findings and in the compliance order for the City.

4 Representatives are available to answer any
5 questions.

6 This concludes my presentation.

7 Thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you very
9 much.

10 Mr. Eaton.

11 We have a speaker.

12 BOARD MEMBER EATON: I have one question.

13 My understanding is that the original report,
14 according to the file, was due in April of 2000. And if
15 you go back to the original compliance order on
16 page 18-51 of the document, it also says April 3rd, 2000
17 final report.

18 Where did the extension come from for
19 the compliance order? Since it's a compliance order for
20 procedural issue from the legal department, I'd like to
21 know if you have a compliance order, under what
22 delegation of authority under the Board do we allow
23 extensions of time? Where was that? Was there an
24 extension granted by the Board?

25 MS. SAKAKIHARA: For this particular

1 jurisdiction?

2 BOARD MEMBER EATON: Any jurisdiction. This
3 one in particular is like, what is it now, December
4 2001. So we're like 18 months past the original
5 compliance order?

6 MS. MORGAN: Cara Morgan of the Office of
7 Local Assistance, then I'll turn it over to Elliot
8 Block.

9 For this particular jurisdiction, their status
10 report update was due to the Board by April 3rd, 2000.
11 Their final report was required to be submitted by
12 June 15th, 2000.

13 BOARD MEMBER EATON: Right.

14 MS. MORGAN: And they did meet it. They
15 actually submitted their base-year study by June 14th,
16 2000.

17 Elliot.

18 MR. BLOCK: The only thing I was going to add,
19 the reason I wanted Cara to speak first I wasn't sure if
20 this jurisdiction had actually asked for an extension or
21 not.

22 There are a number of jurisdictions who are
23 doing base years who also got, I guess I would --
24 we don't have a name for them. I'd call it an informal
25 extension, based on the Board's moratorium that

1 specified that until the Board -- I don't remember
2 the exact because I don't have it in front of me --
3 but specified while the Board was revising, working on
4 the diversion study guide, any jurisdictions that were
5 subject to doing base years under compliance orders
6 would get additional time to complete those after the
7 diversion study guide was done.

8 So I think that's part of where this came
9 from.

10 BOARD MEMBER EATON: But in the last year we
11 haven't had the moratorium since June of 2000.

12 MR. SCHIAVO: I believe the moratorium was
13 around April -- no, it was --

14 BOARD MEMBER EATON: '99.

15 MR. SCHIAVO: -- October or November of 2000.
16 It was October 2000. We went through about April of
17 2001. And when this came in in June 14 it was placed --
18 you know, it's backed up because there's others that
19 were coming forward to the Board, then when the Board
20 put the moratorium on we never brought that forward.
21 And then when we came forward again, prioritizing and
22 moving forward with these, we'd only bring a couple,
23 two or three a month, because we've been going out doing
24 audits and putting a lot more scrutiny into these.

25 So it's just a timing issue.

1 BOARD MEMBER EATON: Well, okay. Is this
2 a jurisdiction that gets most of their diversions
3 through fruit culls?

4 MR. SCHIAVO: This is vegetable culls, right.

5 BOARD MEMBER EATON: Okay. In past years,
6 do we run into the same problem we ran into with
7 Lake Arrowhead and Big Bear that those really aren't
8 city culls that they're really county culls?

9 MR. SCHIAVO: Well, go ahead.

10 MS. MORGAN: I am not sure --

11 BOARD MEMBER EATON: How did you get that the
12 generation takes place in the county? It doesn't take
13 place within the city border. I do not know of any
14 growing that takes place in the City when I visited it
15 to the amount that's been claimed.

16 MS. MORGAN: Sure. The point of generation
17 for this particular activity is the packing plant, which
18 is located within the city limits. That's where the
19 culls are actually generated. And we did confirm that
20 because we also were wondering if that was an issue,
21 because it seems like it was close to the county
22 limits.

23 But we did confirm that it was actually within
24 the City and generated within the City. The packing
25 plants.

1 BOARD MEMBER EATON: So it's always been
2 within the City.

3 So there would have been no reason for them to
4 get the extension of time that was granted. Because the
5 generation always took place within the city, there was
6 no dispute and it related to no Board policies that were
7 taking place during the time of the moratorium because
8 it all delves around fruit culls?

9 So what I'm having a hard time finding with
10 this jurisdiction is why it took so long and why so much
11 was extended to them when they had the basic figures
12 before them, which was all 1999 data. Because you sat
13 down right here. It says you met with them in October
14 of 1999 to talk about that, so that material was set.
15 And that's, I mean, I think procedurally if we're going
16 to do compliance orders somehow there's got to be
17 a mechanism by which our compliance orders or procedure
18 by which if we're going to extend the compliance order
19 it would have to come back before the Board. And it's
20 not a delegated authority.

21 Because otherwise whatever we do, compliance
22 orders or not have no full force and effect no matter
23 what we do, whether it be on base years or anything else
24 in the future. If I were a jurisdiction I'd say
25 Ignore it, what are they going to do?

1 MR. BLOCK: If I may respond. And I
2 apologize, Elliot Block for the legal office. I didn't
3 say that before I spoke before.

4 Correct me if I'm wrong, because I'm not
5 necessarily sure I'm following exactly why this
6 jurisdiction didn't fall within the moratorium while
7 the fruit cull issue may have been one that was not
8 necessarily at issue, there are other things in the
9 base year.

10 To the extent that we have had jurisdictions
11 that have needed extensions, the staff has certainly
12 always brought those extensions forward. The exception
13 to that has been where extensions were necessary for new
14 base year. And in that case I think we certainly didn't
15 believe we were acting with that delegation. We thought
16 we were acting in accordance with the Board's moratorium
17 which said, Don't bring new base years back until we get
18 this issue worked out, so...

19 BOARD MEMBER EATON: And the issue being?
20 The issue of?

21 MR. BLOCK: The diversion study guide and what
22 counts and those issues.

23 BOARD MEMBER EATON: Remember, diversion study
24 guide is a guide. It's not a basis by which you should
25 do that. I mean, I can't tell you how many times we

1 mention that. So I don't look at that as an excuse.

2 MR. BLOCK: Well, as I recall -- and the
3 difficulty I am having answering your question, I guess,
4 is because I don't have that language in front of me.
5 I obviously cannot, I don't remember exactly what it
6 says.

7 But as I recall, we did try to bring a couple
8 of base years back to the Board within that time period
9 and were directed by the Board not to do that because of
10 the moratorium.

11 So I guess I am not sure what was different
12 about this jurisdiction as opposed to the other ones
13 that the moratorium applied to. Perhaps I need to do
14 some additional research, and I can certainly get back
15 to you on that if you'd like. And I don't know if there
16 are other jurisdictions --

17 MS. MORGAN: The only other thing I'd like to
18 add, Board Member Eaton, is that they did submit what
19 was required on April 3rd. And they continued to work
20 with us and submit additional information as we
21 requested it; so they did meet the April 3rd deadline.

22 BOARD MEMBER JONES: Madam Chair.

23 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

24 BOARD MEMBER JONES: The -- I get confused.
25 I have some trouble with the dates sometimes, too.

1 But I don't want to talk about that right now.

2 I do want to say that our staff, I have sat
3 down with both the staff and some other folks on this
4 particular issue, and I think I told members at the
5 briefing that I was going to have a meeting with the
6 consultant.

7 And I think that the City is fully prepared to
8 support, actually went out on the audits with staff, saw
9 the methodology, saw the way it was being counted, saw
10 the way it was done, looked at the denial of a lot of
11 tonnage that was questionable or for whatever reason.
12 You can use whatever word you want there.

13 So I think that the City has definitely done
14 its job. And I think our staff has done its job in
15 giving us a document that more accurately reflects the
16 waste stream in that city.

17 And I know there's some issues with timing and
18 things like that. I'm not going to go there. Because
19 I think Mr. Eaton's right on some of the timing of those
20 things.

21 But I do congratulate you for the work you
22 did. And I just want to see what -- you know, where
23 we're going, because I know you have a speaker.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you.

25 Steve Johnson.

1 MR. JOHNSON: Madam Chair, members of the
2 Board. My name is Steve Johnson, I'm the Operations
3 Manager for Salinas Valley Solid Waste Authority.

4 I know it's late in the day so I'll make this
5 very, very brief. Today has really been a real
6 milestone for the authority since it was formed in
7 1997. This morning you approved the last two of our
8 four solid waste facilities permits. And today you're
9 looking at our member city number three of five, in
10 terms of adjusting the base year. So we're getting
11 there. Hopefully by midyear next year we will be
12 completed with the process.

13 This last base year adjustment with the City
14 of King has been a real learning experience for us. And
15 I'd like to thank both Cara and Susan for all the work
16 they've put in on this. From what we've learned in this
17 particular one, now we get to go on to the big kahuna,
18 which is the City of Salinas which is the single largest
19 portion of our population mass. We want to make certain
20 we get that one right.

21 We, as Steve Jones said, we have gone through
22 the process with staff, we concur with all their
23 findings and we certainly have learned a great deal
24 along the way.

25 I have also brought my recycling coordinator

1 Kurt Hunter, and we're welcoming any questions you may
2 have on any of the issues.

3 Thank you.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you.

5 Mr. Jones.

6 Oh, Mr. Paparian.

7 I think Mr. Jones wants to make a motion.

8 So go ahead.

9 BOARD MEMBER PAPARIAN: I just had a quick
10 question. Maybe it's just curiosity. Not for you, for
11 legal office, I think.

12 There's an odd -- there's an oddity in the
13 signature page of the base year study. I wonder if you
14 have any explanation for that in terms of the date?

15 MR. BLOCK: Are you on page 18-13?

16 BOARD MEMBER PAPARIAN: This is the signature
17 page (indicating).

18 MR. BLOCK: It's not numbered. Okay.

19 BOARD MEMBER PAPARIAN: Where it indicates, it
20 indicates the date is the date this document was
21 received as part of a study dated August 11th, 2000.
22 As opposed to the date that this person purportedly
23 signed this thing.

24 MR. SCHIAVO: That's actually a product of --
25 the study was submitted to us prior to the

1 certification, and then the certification was completed
2 after the study was submitted to us. That's the reason
3 for the difference in dates.

4 BOARD MEMBER PAPARIAN: In the future would
5 that present a legal concern?

6 MR. BLOCK: I certainly -- it's not the
7 preferred way to have that dated. I don't think it
8 raises a concern in terms of a litigated document.
9 The document -- certainly the person signing the
10 document is not going to be able to use that to somehow
11 say it was not a valid document and the like. We will
12 make sure that gets --

13 MR. SCHIAVO: Part of this is --

14 MR. BLOCK: -- corrected in the future
15 if we see that.

16 MR. SCHIAVO: -- of the timing when this
17 occurred a year ago or a year and a half ago people
18 submitted studies to us, we would look at them. There'd
19 be a lot of back and forth; and then finally when we get
20 closer to resolution, they would submit this document
21 dated in August.

22 The process now has changed as a result of
23 going through the diversion study guide moratorium
24 process where we devised a new form. And now they
25 submit the whole package all together, so the date

1 should be consistent.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you.

3 Mr. Jones.

4 BOARD MEMBER JONES: Madam Chair, I want to
5 move adoption of Resolution 2001-490, Consideration Of
6 Staff Recommendation To Change The Base Year To 1999
7 For The Previously Approved SRE; and Consideration
8 Of '97/'98 biennial Review Findings For The Source
9 Reduction And Recycling Element And Household Hazardous
10 Waste Element; And Consideration Of Completion Of
11 Compliance Order IWMA BR99-47, For The City Of King City
12 And Monterey County.

13 BOARD MEMBER MEDINA: Second.

14 THE COURT: Motion by Mr. Jones, seconded by
15 Mr. Medina, to approve Resolution 2001-490.

16 Please call the roll.

17 BOARD SECRETARY VILLA: Eaton.

18 BOARD MEMBER EATON: Abstain.

19 BOARD SECRETARY VILLA: Jones?

20 BOARD MEMBER JONES: Aye.

21 BOARD SECRETARY VILLA: Medina?

22 BOARD MEMBER MEDINA: Aye.

23 BOARD SECRETARY VILLA: Paparlian?

24 BOARD MEMBER PAPARIAN: Aye.

25 BOARD SECRETARY VILLA: Roberti?

1 SENATOR ROBERTI: Aye.

2 BOARD SECRETARY VILLA: Moulton-Patterson?

3 BOARD CHAIR MOULTON-PATTERSON: Aye.

4 Moving on to Item 19.

5 MR. SCHIAVO: Item No. 19 is Consideration Of
6 Staff Recommendation To Change The Base Year To 1998
7 For The Previously Approved Source Reduction And
8 Recycling Element; Consideration Of The 1997/1998
9 Biennial Review Findings For The Source Reduction And
10 Recycling Element And Household Hazardous Waste Element;
11 And Consideration Of Completion Of Compliance Order
12 IWMA BR99-61, For The City of San Gabriel, Los Angeles
13 County.

14 And Kaory Cruz will be making this
15 presentation.

16 MS. CRUZ: The City of San Gabriel was issued
17 a compliance order as a result of the '95/'96 biennial
18 review, because it was not possible to calculate the
19 City's diversion rate accurately with the current 1990
20 base year.

21 The City originally submitted a 1998, a new
22 base year change request with a diversion rate of
23 29 percent. As part of the base-year study review,
24 Board staff conducted a site visit. As a result of
25 the site visit, staff is recommending deduction, that

1 Item 5 in Attachment 3 of the agenda.

2 The City has also requested a deduction in its
3 1998 disposal tonnage due to claimed misreporting of
4 cell disposal at some of the landfills. Board staff
5 determined that only 10,870 tons of that requested,
6 12,255 tons of disposal reduction was adequately
7 verified.

8 Therefore, Board staff is recommending that
9 the City only be allowed to reduce their 1998 reporting
10 year disposal by 10,870 tons. The deduction can be
11 viewed in Attachment 3 of the agenda item.

12 With all of the Board staff recommended
13 changes, the City's diversion rate for 1998 would be
14 28 percent. The City has been very cooperative in their
15 effort to work with Board staff.

16 Board staff is recommending Option 2 of the
17 agenda item, which would approve the device base-year
18 change with staff recommendation, accept the 1997/98
19 biennial review finding, and end the compliance order
20 IWMA BR99-61 for the City.

21 Representatives are present to answer any
22 questions.

23 This concludes my presentation. Thank you.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you.

25 Questions?

1 BOARD MEMBER PAPARIAN: Madam Chair.

2 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

3 BOARD MEMBER PAPARIAN: I guess I'm obsessed
4 about signature pages.

5 Shouldn't we have a signed signature on
6 something like this one? A signed page?

7 I'm looking at 19-12.

8 MR. BLOCK: The answer to that question is
9 yes.

10 MS. CRUZ: In my package I have a signed
11 signature.

12 MR. SCHIAVO: Yeah, somehow --

13 MS. CRUZ: I printed out from the Board's, and
14 then I have a signature, a signed.

15 MR. SCHIAVO: If you have a real signature on
16 the original, that's fine.

17 MS. CRUZ: Uh-huh, yeah.

18 BOARD MEMBER PAPARIAN: Thank you.

19 BOARD CHAIR MOULTON-PATTERSON: Any other
20 questions?

21 Mr. Jones.

22 BOARD MEMBER JONES: Madam Chair, I'll move
23 adoption of Resolution 2001-491 Consideration Of Staff
24 Recommendation To Change The Base Year 1998
25 And To Consideration Of Biennial, 1997/98 Biennial

1 Review Findings for the SRE; And Completion Of
2 Compliance Order IWMA BR99-61, For The City Of
3 San Gabriel And L.A. County.

4 BOARD MEMBER MEDINA: Second.

5 BOARD CHAIR MOULTON-PATTERSON: We have a
6 motion by Mr. Jones, seconded by Mr. Medina, to approve
7 Resolution 2001-491.

8 Please call the roll.

9 BOARD SECRETARY VILLA: Eaton?

10 BOARD MEMBER EATON: Abstain.

11 BOARD SECRETARY VILLA: Jones?

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY VILLA: Medina?

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY VILLA: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY VILLA: Roberti?

18 SENATOR ROBERTI: Aye.

19 BOARD SECRETARY VILLA: Moulton-Patterson.

20 BOARD CHAIR MOULTON-PATTERSON: Aye.

21 That brings us to Number 20.

22 MR. SCHIAVO: Item No. 20 is Consideration
23 Of Staff Recommendation To Correct The Base Year For
24 The Previously Approved Source Reduction And Recycling
25 Element For The City Of Victorville, County Of

1 San Bernardino.

2 And Susan will be making this presentation.

3 MS. SAKAKIHARA: The City of Victorville is
4 requested to correct its 1990 base-year generation
5 tonnage, because of previously uncounted disposal and
6 uncounted concrete and asphalt diversion.

7 The City submitted its base-year certification
8 request on February 24th, 2000, which is prior to the
9 Board's established deadline for 1990 base-year
10 correction requests.

11 Staff completed their review of the request.
12 And in April 2000 staff sent correspondence to the
13 City informing them the Board of Equalization data was
14 adequate. However, they still needed to submit
15 documentation to meet the restricted waste criteria for
16 the construction and demolition diversion.

17 The City submitted necessary documentation to
18 meet the restricted waste criteria on October 1st,
19 2001. Upon review of the documentation, the request for
20 increased base-year tonnage from the installation of
21 scales and disposal of sludge is double-counting from
22 a previous base year correction and should not be
23 included.

24 Board staff recommends Option 2: Accept
25 the base-year correction amounts resulting from the

1 Board of Equalization audit and the concrete and asphalt
2 recycling.

3 Representatives are present to answer any
4 questions.

5 This concludes the presentation.

6 BOARD CHAIR MOULTON-PATTERSON: Questions?

7 BOARD MEMBER JONES: Madam Chair.

8 BOARD CHAIR MOULTON-PATTERSON: I just have
9 one, excuse me.

10 If they were, you know, since I wasn't here
11 indulge me on this. Why weren't they put on a
12 compliance order in '95? I mean, weren't they at 22 and
13 going down to 18 percent?

14 MR. SCHIAVO: We're not sure.

15 MS. SAKAKIHARA: Good-faith effort.

16 BOARD MEMBER JONES: I think it was a good
17 faith effort.

18 I think it was (inaudible) -- a waste stream
19 action was increased because they found some other
20 diversion. I think at the time the program in place
21 mirrored the number and we did good for that.

22 BOARD CHAIR MOULTON-PATTERSON: Okay.

23 Mr. Jones.

24 BOARD MEMBER JONES: Madam Chair, I move
25 Adoption of Resolution 2001-492 Consideration Of Staff

1 Recommendation To Correct The Base Year For The
2 Previously Approved SRE For The City Of Victorville
3 in San Bernardino County.

4 BOARD MEMBER MEDINA: Second.

5 BOARD CHAIR MOULTON-PATTERSON: We have a
6 motion by Mr. Jones, seconded by Mr. Medina, to approve
7 Resolution 2001-492.

8 Please call the roll.

9 BOARD SECRETARY VILLA: Eaton?

10 BOARD MEMBER EATON: Abstain.

11 BOARD SECRETARY VILLA: Jones?

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY VILLA: Medina?

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY VILLA: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY VILLA: Roberti?

18 SENATOR ROBERTI: Aye.

19 BOARD SECRETARY VILLA: Moulton-Patterson.

20 BOARD CHAIR MOULTON-PATTERSON: Aye.

21 That brings us to our last item. Give you
22 a chance for the shifting.

23 MS. JORDAN: Good afternoon, Madam Chair and
24 members of the Board. Terry Jordan with the Division of
25 Administration.

1 Agenda Item 21 is Consideration Of Approval Of
2 Consulting And Professional Services Concepts For The
3 Balance Of The Integrated Waste Management Account
4 For Funding In The 2001 and 2002 Fiscal Year.

5 Susan Villa, Manager of the Contracts Office
6 will present.

7 MS. VILLA: Madam Chair, Board members.

8 This item addresses the balance of the
9 consulting and professional services concept submitted
10 for fiscal year 2001/2002, and the available funding
11 available from the Integrated Waste Management account.

12 At the October Board meeting the Board
13 approved 16 concepts totaling an allocation of
14 \$1,569,000. And at that meeting they asked that we
15 review the mandatory contract services listing to
16 determine if the dollar allocations were appropriate.

17 We completed that review and provided
18 documentation to the Board members and found that some
19 of the dollar amounts could be adjusted. So totaling
20 the 281,150 that remained from the previous item and
21 what we found through detailed review of the mandatory
22 services contract, we came up with a total available
23 for this item to continue allocating the Integrated
24 Waste Management Account of \$425 -- \$425,925.

25 Because the request for that funding far

1 exceed the funding level available, the budget
2 subcommittee reviewed the available funding and
3 the remaining concepts and made a recommendation.
4 And you'll see on Attachment 3 of your packet that
5 halfway down the page are the remaining concepts to
6 be considered here today.

7 BOARD MEMBER JONES: Which attachments is
8 that, Susan?

9 MS. VILLA: Attachment 3, page --

10 BOARD CHAIR MOULTON-PATTERSON: Revised
11 Attachment 3, is that what you're looking at.

12 MS. VILLA: Yes, Revised Attachment 3. Looks
13 like this (indicating).

14 The subcommittee recommendation found
15 concepts -- are recommending for the Board to consider
16 Concepts 39, 16, 37, and a revised 36. Which leaves a
17 remaining balance of \$75,925 rounding up to 76,000 for
18 the Board to consider for concepts. Which at the
19 subcommittee, the subcommittee directed the Waste
20 Prevention Market Development Division to prioritize
21 those concepts. And at the briefing, the Division
22 presented their priorities.

23 And those are listed under the Executive Staff
24 Recommendations at the bottom of the page. And they are
25 recommending funding Concept Number 20 at a revised

1 amount of \$25,925 and Concept Number 23 at the original
2 requested amount of \$50,000.

3 I'd also like to note that on the Budget
4 Subcommittee's recommendation of funding Concept Number
5 37 of 100,000, which was a reduced amount from what the
6 original request was. But in addition to that, that
7 concept was originally proposed as being split-funded
8 to have an additional 50,000 each from the tire and oil
9 fund. And so if we wanted to pursue that additional
10 funding we would need to bring back an item at a later
11 date, because those allocation plans have already been
12 heard by the Board. I just wanted to add that
13 information in.

14 That concludes my presentation.

15 We can take questions and discuss each concept
16 and -- as you wish.

17 BOARD CHAIR MOULTON-PATTERSON: Okay. Would
18 you repeat those numbers for me that we at the Budget
19 Subcommittee recommended again? It was 39? I didn't
20 catch them all. I'm sure they're on here somewhere,
21 but --

22 MS. VILLA: They are. The Budget Subcommittee
23 recommended concepts 39, 16, and 37 and a revised
24 concept 36.

25 BOARD CHAIR MOULTON-PATTERSON: And then

1 the 20 and 23 were the --

2 MS. VILLA: Yes, 20 and 23 were the priorities
3 identified by the Waste Prevention Market Development
4 Division.

5 BOARD CHAIR MOULTON-PATTERSON: Questions?
6 Mr. Eaton.

7 BOARD MEMBER EATON: Just a couple.

8 The issue of the assessment of the end vessel
9 and anaerobic digestion technologies, does that have
10 anything to do with what is going on with the AQMD?
11 Should they rule that we have to have those facilities.

12 BOARD MEMBER JONES: Then would be the time
13 (inaudible).

14 BOARD MEMBER EATON: So that would have an
15 impact, so that should be one we should keep in mind
16 necessarily. Because that would have an affect on that
17 to some degree, so...

18 BOARD CHAIR MOULTON-PATTERSON: Are you
19 talking about Number 17?

20 BOARD MEMBER EATON: Yeah, I'm not, you know,
21 pushing it. But I just saw that was one we had this
22 whole situation. We ought to be very careful if that's
23 where we need to be.

24 BOARD MEMBER JONES: Really, we probably ought
25 to think about keeping that in.

1 BOARD MEMBER PAPARIAN: Actually, I think we
2 brought that up in the subcommittee and felt that that
3 would be an obvious candidate at reallocation time.
4 That we weren't ready to -- we didn't have something to
5 spend it on right now, but that that would be a high
6 priority for reallocation.

7 BOARD MEMBER EATON: Then if I could ask, have
8 the BCPs been determined?

9 MS. VILLA: The budget has not been released,
10 so those are still confidential at this time.

11 BOARD MEMBER EATON: Okay. So how about Item
12 Number 40? Concept Number 40.

13 MS. VILLA: My understanding is that is on
14 hold until we hear the outcome of -- you're going to
15 make me say it, huh --

16 BOARD MEMBER EATON: Absolutely.

17 MS. VILLA: -- the Governor's budget.

18 BOARD MEMBER EATON: But as Board members we
19 should have some indication. If we're going to, if I'm
20 going to accept a subcommittee's recommendation, I need
21 some information by which to base my, you know,
22 decisions on.

23 BOARD MEMBER JONES: Can I ask a question?

24 BOARD MEMBER EATON: Sure absolutely.

25 MS. JORDAN: May I add something also?

1 At an earlier date the Board members were
2 advised of what the Governor is looking at as a proposed
3 budget for us which included some --

4 BOARD MEMBER JONES: I can phrase this in
5 a way. Since Mr. Eaton and I put this forward, we are
6 both very anxious to see it go forward because we think
7 there's value in the State.

8 Based on some conversations or some rumblings
9 I heard in the hallway, my anxiety level was not very
10 high that I thought that this was going to probably
11 happen someday. Should I, my anxiety, did I check that
12 right? Is my anxiety about right?

13 MS. JORDAN: Your anxiety is correct.

14 BOARD MEMBER JONES: Good. I always go with
15 those kind of things. Thank you, okay.

16 BOARD MEMBER MEDINA: Madam Chair, I'd like to
17 move this item. Resolution 2001-527, Consideration Of
18 Approval Of Consulting And Professional Services Concepts
19 For The Balance Of The Integrated Waste Management
20 Account For Funding In The 2001/2002 Fiscal Year.

21 BOARD CHAIR MOULTON-PATTERSON: Do we need
22 to --

23 BOARD MEMBER PAPARIAN: Second.

24 BOARD CHAIR MOULTON-PATTERSON: Do we need to
25 read them off?

1 MS. VILLA: I would like that, so that we
2 capture the waste prevention market development's --

3 BOARD CHAIR MOULTON-PATTERSON: I have
4 a motion by Mr. Medina, seconded by Mr. Paparian, to
5 approve Resolution 2001-527. And that includes Number
6 39, 16, 37, 36, 20, and 23; is that right?

7 MS. VILLA: Yes.

8 BOARD CHAIR MOULTON-PATTERSON: Please call
9 the roll.

10 BOARD SECRETARY VILLA: Eaton?

11 BOARD MEMBER EATON: Aye.

12 BOARD SECRETARY VILLA: Jones?

13 BOARD MEMBER JONES: Aye.

14 BOARD SECRETARY VILLA: Medina?

15 BOARD MEMBER MEDINA: Aye.

16 BOARD SECRETARY VILLA: Paparian?

17 BOARD MEMBER PAPARIAN: Aye.

18 BOARD SECRETARY VILLA: Roberti?

19 SENATOR ROBERTI: Aye.

20 BOARD SECRETARY VILLA: Moulton-Patterson.

21 BOARD CHAIR MOULTON-PATTERSON: Aye.

22 It's been a very long day and we're going to
23 adjourn for today and see you here tomorrow at 9:30.

24 (Thereupon, the foregoing meeting was
25 concluded at 5:30 p.m.)

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN FRANCISCO)

I, DANA M. FREED, a Certified Shorthand Reporter for the State of California do hereby certify that I am a disinterested person herein; that I reported the foregoing meeting in shorthand writing; and thereafter caused my shorthand writing to be transcribed by computer.

I further certify that I am not counsel or attorney for any of the parties to said proceeding, nor in any way interested in the outcome of said proceeding.

IN WITNESS WHEREOF, I have hereunder subscribed my hand this 26th day of December, 2001.

DANA M. FREED, CSR NO. 10602
State of California

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